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## Introduction

To know the art of pacification almost equally with the art of war is, besides, a necessity for the army officer who may to-day and in the future desire to serve well his country; for, however incongruous it may seem, the work of making peace is falling and will fall upon the man whose duty it is also to make war. By proper instruction and study we should be prepared for this duty; it is missing the problem, it is neglect of preparation if we fail to do so.<sup>1</sup>

—Lieutenant Colonel Robert L. Bullard, US Army

While there are veritable libraries dedicated to the study of war, few military theorists or historians have evaluated the role of the army in the study of peace or the craft of peacemaking. Even the great Western master of war theory Carl von Clausewitz exerted little to no effort in explaining peace and its causes in his magnum opus, *On War*. Most of the focus of military art and military history has been on the causes of war and its conduct. Such military historians as John Lynn have stressed that the uniqueness, hence the *raison d'être* of military history, is the study of combat.<sup>2</sup> The study of violent conflict between nations and social organizations is what differentiates military history from all other types of historical inquiry. The study of non-violent resolution of conflict through military means would thus seem to be antithetical to what military history is all about. Yet the militaries of most nation states have spent the vast amount of their existence in what most would define or describe as times of peace, though little intellectual inquiry has been conducted regarding the roles and missions of armies during peacetime. As a result, significant questions about those roles have remained virtually unanswered.

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<sup>1</sup> Lieutenant Colonel Robert L. Bullard, "The Army in Cuba," *Journal of the Military Service Institution of the United States* 41 (Sept-Oct 1907), 157.

<sup>2</sup> John A. Lynn, "The Embattled Future of Academic Military History," *Journal of Military History* 61, no. 4 (October 1997), 777-89.

One of the most challenging questions centers on the American military's conduct of peace operations. Most scholars have stressed the post World War II era as the genesis of modern peacekeeping and peace enforcement operations. But as Lieutenant Colonel Robert Bullard emphasized in his assessment of army operations in Cuba, the United States has been concerned with peace operations well before the Cold War era. Bullard's experience and observations came from his tours of duty in the Philippines and Cuba during the early years of the twentieth century. But his concerns over peace operations were not the genesis of the army's involvement with military operations other than war. A more in-depth look at the constabulary army of the nineteenth century offers greater insight and understanding into how and why the army conducted peace operations well before the twentieth century. Two separate but related peace operations conducted by the army during the 1850s provide a great deal of insight regarding the manner in which the American military has approached peace operations in general and domestic peace operations in particular. The Sioux Expedition of 1855 and the use of the army as peacekeepers during the "Bleeding Kansas" era explains a lot about what one might describe as an American way of peacemaking.

Noted military historian Russell Weigley has broached the issue of a distinctive American way of war in his 1973 book on the subject, but no one to date has sought to understand how Americans and more specifically how the United States

Army has conducted peace operations over the last two hundred years.<sup>3</sup> Interest in the army as a peacekeeping and peace enforcement force, however, has escalated dramatically over the last ten years. Recent experiences in Bosnia, Haiti, Macedonia, and Somalia have increased the demand for knowledge regarding peacekeeping and peace enforcement operations. A recent database review of studies on peacekeeping at the Air University library, yielded 385 research projects or books associated with the topic. Of those 385, only two dealt with the army and peacekeeping prior to 1945. Of those two, one paper dealt with the United States intervention in Siberia at the end of World War I. The other dealt with the nineteenth century army in context of peace enforcement operations associated with 1876 Yellowstone Campaign.<sup>4</sup>

Based on these numbers, there seems to be a dearth of scholarship related to the United States army and peace operations prior to the Cold War era. But peace operations—peacemaking, peacekeeping, and peace enforcement as we call them today—have been around much longer than 1945.<sup>5</sup> Contemporaries may not have called army activities associated with the punishment of recalcitrant Indians in the trans-Missouri West or the interposition of federal troops between hostile factions in Kansas peace operations, but in essence that is what they were. If the “application of military force or the threat of its use, normally pursuant to [governmental] authorization, to compel compliance with resolutions or sanctions designed to

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<sup>3</sup> Russell F. Weigley, *The American Way of War; A History of United States Military Strategy and Policy* (Bloomington: Indian University Press, 1973).

<sup>4</sup> Lieutenant Colonel Martin A. Lippert, USANG, “A Strategic Examination of the 1876 Yellowstone Campaign: Its Implications for Modern Day Peace Enforcement Operations,” U.S. Army War College, 2 April 2001.

<sup>5</sup> These components of peace operations are taken from Joint Publication 3-0, *Doctrine for Joint Operations*, 1 February 1995, V-11.

maintain or restore peace and order” is accepted as a definition of peace enforcement, then the United States army conducted such operations against the Sioux in 1855.<sup>6</sup> If peacekeeping is defined as the use of military force to maintain peace and order through the interposition of armed soldiers between hostile factions, then the use of the regular army in territorial Kansas to enforce the law and maintain order was a domestic peacekeeping operation. These constabulary or police duties were not always popular with the soldiers that conducted them, but the purpose behind them remained constant—the maintenance of peace, order, and security.

The lack of intellectual inquiry regarding peace operations during the nineteenth century is unfortunate for two reasons. First, there exists a great deal of uncultivated soil from which to better understand an American approach to peacemaking. Second, by uncovering a small plot of fertile ground historians and military professionals can gain a better understanding how the United States Army conducted peace operations. This dissertation examines two situations in which the army conducted peace operations during the 1850s. By themselves these situations are illuminating, but taken together they provide the beginnings of greater insight into an American way of peace. The army’s peace enforcement operations against the Sioux in 1855 and its peacekeeping duties in territorial Kansas between 1855 and 1856 tells us a great deal about the nature of domestic peace operations during the 1850s. It also unveils the army’s response to the challenges of peace enforcement

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<sup>6</sup> The bulk of this definition comes from Joint Publication 3-07, *Joint Doctrine for Military Operations Other than War*, 16 June 1995, GL-4.

and peacekeeping that further illuminates the concerns and constraints associated with domestic peace operations.

Between the passage of the Kansas-Nebraska Act in May 1854 and the onset of the American Civil War, the federal government called upon the United States Army to perform a myriad of functions and missions in support of the American people. Some of their operations were routine, others completely new. Of the two most notable missions in the trans-Missouri West, the first was to protect lines of communication, newly arrived settlers, and emigrants traveling along the various trails west from hostile indigenous peoples. The second was to conduct explorations and perform topographical surveys for the government. Both missions were essential components of the United States government's efforts to provide security for its people as well as to fulfill the need to establish and maintain the public order necessary to pursue the American vision of peace and prosperity.

To accomplish these important missions, the War Department maintained two large military posts in the territory. Fort Leavenworth, established in 1827, served as the primary installation. Its proximity to the various overland trails west and its access to the Missouri River made it a logical point from which to manage Kansas's and the American West's security needs. The War Department constructed Fort Riley 1853 to satisfy a need to maintain a military presence further west. Its purpose, like that of Fort Leavenworth, was to protect American citizens and aid in the United States expansion process.

Circumstances somewhat unique to the creation of the Kansas territory, however, required the army to conduct operations it was often loathe and ill trained to perform—peacekeeping and peacemaking. Neither the 1855 Sioux expedition nor the “Bleeding Kansas” saga was the first time the federal government had used or had threatened the use of the army as a coercive means to establish peace, order, and security in volatile situations, but they were two of the most significant instances. The Sioux expedition marked the beginning of a cycle of punitive campaigns against Plains Indians designed to keep peace in the area. The manner in which the army conducted its peace enforcement operations against the Sioux set precedents for future army operations in the American West and beyond. In Kansas, army peacekeeping operations raised poignant questions associated with the use of regulars to ensure domestic peace. The peace operations in Kansas were particularly sensitive because of the combination of ideological fanaticism over the slavery extension issue, the seemingly unquenchable desire for land, and the decentralized nature of the federal government. The combinations of these factors created a volatile situation in which the Pierce administration asked the army to create and maintain peace once violence had erupted. Should the army fail to enforce the Treaty of Fort Laramie and keep the Oregon Trail free from Indian depredations, westward expansion would be slowed. Should the army fall short in its efforts to pacify “Bleeding Kansas,” civil war was likely. In hindsight and despite the best efforts of the army, peace with the Lakota proved to be temporary and Kansas was never completely pacified until the Civil War decided the slavery extension issue permanently.

Few historians, however, have examined the role of the army during “Bleeding Kansas” or in the trans-Missouri West in context of its role as a domestic peacekeeper and peacemaker. Even fewer political or social historians have attempted to explain the role and impact of the army during this tumultuous period of American history. Some noted military historians, such as Francis Paul Prucha, Robert Utley, Edward M. Coffman, and William Skelton have written about the army’s role in Kansas and the American West in context of its contributions to the frontier and westward expansion.<sup>7</sup> But very few have taken a detailed look at how the army functioned as a peacemaking and peacekeeping during those volatile years in territorial Kansas. Of those historians who have concentrated on the army, John Garver, David Skaggs, Jay Monaghan, and Robert Coakley have offered the most thorough analysis of the army’s role during “Bleeding Kansas.”

In context of the coming of the Civil War, historians have written much on the political, economic, moral, and social aspects of the Kansas question. From renowned historical works such as Allan Nevins’s *Ordeal of the Union* to James McPherson’s *Battle Cry of Freedom*, “Bleeding Kansas” has served as prologue to the great fratricidal struggle that erupted seven years after the passage of the Kansas-

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<sup>7</sup> For more on the Army in general see Francis Paul Prucha, *Broadax and Bayonet: The Role of the United States Army in the Development of the Northwest, 1815-1860* (Lincoln: University of Nebraska Press, 1953); Francis Paul Prucha, *Sword of the Republic: The United States Army on the Frontier, 1783-1846* (London: The Macmillan Company, 1969); Robert M. Utley, *Frontiersman in Blue: The United States Army and the Indian, 1848-1865* (New York: The Macmillan Company, 1967); Edward M. Coffman, *The Old Army: A Portrait of the American Army in Peacetime, 1784-1898* (New York: Oxford University Press, 1986); and William B. Skelton, *An American Profession of Arms: The Army Officer Corps, 1784-1861* (Lawrence: University of Kansas Press, 1992).



Nebraska Act in 1854. More recently, however, historians have modified their emphasis on the relationship between Kansas and the coming of the Civil War.

Others have challenged the dominant political paradigm surrounding “Bleeding Kansas.” James C. Malin and his coterie looked beyond the institution of slavery as the root cause of violence in territorial Kansas. While it is virtually impossible to separate political views on the peculiar institution from violence in Kansas, Malin, his followers, and other historians such as Paul Wallace Gates have stressed disagreements over land claims and shortsighted land policy as the primary, underlying reasons for the overall nature and the extent of violence in territorial Kansas.<sup>8</sup>

Alice Nichols and Samuel A. Johnson, on the other hand, have examined “Bleeding Kansas” from the moral or “Puritan heritage” perspective. Johnson, in particular, offered an intriguing look at the New England Emigrant Aid Company (NEEAC) and the degree to which it influenced or shaped events in Kansas and the degree to which it determined the eventual outcome. Johnson did not negate the influence “Bleeding Kansas” had on the coming of the Civil War.<sup>9</sup> But he did broaden the ideological argument relative to why New Englanders sent emigrants to Kansas. Certainly many went to make a living if not a profit, but to Johnson the key

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<sup>8</sup> For an example of Malin’s work, see James C. Malin, *John Brown and the Legend of Fifty-Six* (New York: Haskell House Publishers Ltd, 1971). See also Paul Wallace Gates, *Fifty Million Acres: Conflicts over Kansas Land Policy 1854-1890* (Ithaca: Cornell University Press, 1954).

<sup>9</sup> Alice Nichols, *Bleeding Kansas* (New York: Oxford University Press, 1954) and Samuel A. Johnson, *The Battle Cry of Freedom: The New England Emigrant Aid Company in the Kansas Crusade* (Lawrence: University of Kansas Press, 1954).

motive was the commitment of the NEEAC to making Kansas a free-soil entity and stopping the spread of slavery.

Other ideological-grounded studies included Eric Foner's study of Republican Party ideology and Bill Cecil-Fronsman's assessment of the pro-slavery perspective of "Bleeding Kansas." Foner argued convincingly that Republicans were united in their commitment to free soil and Unionism. The extension of slavery into the new territories, however, posed a threat to their commitment to the concept of free labor. In order to preserve their vision of the nation's future, slavery had to be contained. Their brand of anti-slavery was more political than moral in Foner's estimation. While the morally oriented abolitionists tended to support the Republican Party with their votes, they were usually disappointed that the party platform did not go further in eradicating slavery altogether. Northern racial attitudes coupled with their belief in the sanctity of free labor, Foner contended, gave Republicans an appeal that unified northern society against the perceived threat of a distinctive but backward and retrogressive society of the South. The positive objective of creating and sustaining a nation based on free labor principles was supported by an insidious racism that prevailed in all of American society.<sup>10</sup> The clash of two distinct societies in the territories brought the conflict to a head. Although southerners and northerners were not the only peoples involved in the contest for Kansas and other western territories, their clash ultimately lead to the American Civil War.

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<sup>10</sup> For more on Foner's views, see Eric Foner, *Free Soil, Free Labor, Free Men: The Ideology of the Republican Party before the Civil War* (London: Oxford University Press, 1970).

Cecil-Fronsman took a similar approach in his assessment of southern ideology. In his article on the infamous *Squatter Sovereign*, a newspaper published in Atchison, Cecil-Fronsman used the pro-slavery paper as a gauge of southern ideology. To fully understand "Bleeding Kansas," Cecil-Fronsman argued that one had to grasp how pro-slavery advocates perceived themselves and their adversaries. Southern ideals were just as important as Northern beliefs in understanding why violence came to Kansas. Based on his analysis of the pro-slavery oriented *Squatter Sovereign*, Cecil-Fronsman concluded that southerners tended to see slavery as a prerequisite for republican society. The menace to their vision was not the extension of slavery but the threat of material capitalism and the moneyed interests of the North.<sup>11</sup> As long as southerners perceived northerners as a danger to their society and vice versa, there was little hope of reconciliation and maintenance of the Union short of force of arms.

James Rawley's insightful look into American politics and racism provided yet another perspective historians have used to understand the nuances associated with "Bleeding Kansas." To Rawley, the institution of slavery per se was not the critical issue at hand. He stressed the fact that both Northerners and Southerners accepted Negro inferiority. The significant disagreement centered over how to maintain racial and social relationships within the Union. Many Americans, especially Southerners, saw slavery as a means of racial control. The eradication or containment of the peculiar institution would lead to the dissolution of Southern

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<sup>11</sup> Bill Cecil-Fronsman, "'Death to All Yankees and Traitors in Kansas:' The *Squatter Sovereign* and the defense of Slavery in Kansas" *Kansas History* 16, no. 1 (Spring 1993), 22-33.

society. Many Northerners, on the other hand, saw the spread of slavery as a threat to their vision of the future and their way of life. All newly acquired territories had to remain free from slavery, and preferably free from African-Americans altogether, to guarantee that their vision of prosperity would come to fruition. Given the consensus among Northerners and Southerners on the inferior status of both free and enslaved blacks and the inability of whites to see a viable alternative to slavery as a means of race relations, race became the divisive and excessively emotional issue that led to the Civil War. The critical issue surrounding race centered on how each section's white population perceived their political rights in relation to the expansion of slavery into the territories. In the end, Rawley believed that the South's loss of Kansas was one of the three key triggers that led to the Civil War.<sup>12</sup>

Michael Morrison analyzed events in "Bleeding Kansas" from the perspective of conflicting and competing sectional visions for the nation's future. He looked to the ideological origins of the contrasting visions by assessing both Northern and Southern interpretations of equality and liberty through the prism of the American Revolution. Restricting slavery equated to denial of true equality from the southerner's perspective. To many Northerners, slavery's expansion into the territories threatened their vision of free-soil and free labor. Morrison also addressed the extension of slavery issue from the perspective of the American West and expansion. He asked whether or not it was the federal government's duty to direct

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<sup>12</sup> James A. Rawley, *Race and Politics: "Bleeding Kansas" and the Coming of the Civil War* (Lincoln: University of Nebraska Press, 1969), 271-274. See also Michael F. Holt, *The Political Crisis of the 1850s* (New York: W.W. Norton and Company, 1978).

and control westward expansion. In his assessment, Morrison pinpointed one of the fundamental dilemmas associated with the government's involvement in directing expansion—how to apply American notions of liberty and equality to the territories without the use of federal coercion.<sup>13</sup> Ultimately, Morrison, like Nevins and McPherson before him, looked to Kansas with an eye to explain what caused the American Civil War.

Even social historians such as Gunja SenGupta, who have attempted to explain the phenomenon of “Bleeding Kansas” through “New History” techniques, have maintained that “Bleeding Kansas” was—and arguably remains—not only inextricably connected with the larger story of sectional conflict, with roots firmly entrenched in the historiography of Civil War politics, but also a chapter in the history of Puritan reform.<sup>14</sup> In her recent essay on Bleeding Kansas historiography, SenGupta effectively summarized all the major issues historians have emphasized regarding Bleeding Kansas: the rights of white men versus those of black; sectional roles; the role of the press; and economic imperatives such as land claims and policy, the railroad, and town promotion. Noticeably absent from SenGupta's list is the influence of the army and the role it played in territorial Kansas.

SenGupta was also one of several historians that also placed territorial Kansas in the historiographical context of the American West. Morrison stressed the

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<sup>13</sup> Michael Morrison, *Slavery and the American West*, (Chapel Hill: University of North Carolina Press, 1997), 85.

<sup>14</sup> For an excellent analysis of the ideological and economic issues associated with “Bleeding Kansas,” see Gunja SenGupta, *For God and Mammon: Evangelicals and Entrepreneurs, Masters and Slaves in Territorial Kansas, 1854-1860*, (Athens: The University of Georgia Press, 1996). See also Gunja SenGupta, “Bleeding Kansas,” *Kansas History: A Journal of the Central Plains* 24, no. 4 (Winter 2001-2002): 318-341.

“western” aspect of slavery in Kansas. Patricia Nelson Limerick emphasized the legacy of conquest in her history of the American West. Richard White argued that one of the defining characteristics of the American West was the degree in which the federal government was involved in shaping its development as compared to its eastern counterparts. White gave some attention to the role of the military as a mechanism of federal force that shaped the West, but SenGupta and Limerick barely mention the significance of the army as a means to “conquer” or to subdue the West in their accounts of Kansas in context of the development of American West.<sup>15</sup> This oversight is not surprising. As Dale Watts observed, “The role of the military in Kansas territorial history, puzzlingly, has been largely ignored.”<sup>16</sup>

Of those that have attempted to assess the role of the military, most have stressed the traditional roles and functions of the frontier army. John Garver, for example, saw the army as an agent of western colonization. Garver—a historical geographer—was primarily interested in the army as a means used to colonize Kansas. Examining the army’s function beyond that of “subduing and displacing the Indians,” Garver stressed the “non-combat” role of the army in “support of national strategies for colonization and economic development of the American West.” In his massive dissertation, Garver was primarily concerned with “the coercive and pervasive, yet integrative role of the military in the colonization process and pattern

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<sup>15</sup> Patricia Nelson Limerick, *The Legacy of Conquest: The Unbroken Past of the American West* (New York: W.W. Norton & Company, 1987) and Richard White, *“It’s Your Misfortune and None of My Own”: A New History of the American West* (Norman: University of Oklahoma Press, 1991).

<sup>16</sup> Dale E. Watts, “Plows and Bibles, Rifles and Revolvers: Guns in Kansas Territory.” *Kansas History: A Journal of the Central Plains* 21 (Spring 1998), 42.

and could be termed a study in military cultural geography.”<sup>17</sup> In other words, he was more concerned with the spatial and cultural impact of the army on the transformation of the Kansas landscape than the inner-workings of the army as a peacemaking and peacekeeping force or its relationship to the government and the people.

Other historians, for example, David Skaggs, Harry Westerhaus, and Murlin Welch, have offered notable albeit unpublished accounts of the army and its role in territorial Kansas. Of the three, Skaggs’s work is the most comprehensive. It covered the entire territorial period and it stressed the political, social, and economic impact of the army on territorial Kansas. His interpretative framework of the army in Kansas is quite similar to that of Francis Paul Prucha’s look at the army in the Old Northwest and comparable to William Dobak’s more recent analysis of Fort Riley. Westerhaus limited his study to the eleven months of the James Denver administration but did a nice job of highlighting the important role of the military. Welch’s master’s thesis focused almost exclusively on violence that occurred in southeastern Kansas between 1856 and 1859.<sup>18</sup> Both make important contributions to the understanding of the army in Kansas between 1854 and 1860, but by themselves they neither fully describe the army’s role as peacekeeper and peacemaker nor do

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<sup>17</sup> John B. Garver, “The Role of the United States Army in the Colonization of the Trans-Missouri West: Kansas, 1804-1861.” (Ph. D. diss., University of Syracuse, 1981), iii and 11.

<sup>18</sup> David C. Skaggs Jr., “Military Contributions to the Development of Territorial Kansas,” (Masters Thesis, University of Kansas, 1960); Harry E. Westerhaus, Jr., “The Administration of James W. Denver, Kansas Territorial Executive December 21, 1857 To October 10, 1858” (Masters Thesis, University of Kansas, 1959); G. Murlin Welch, “Border Warfare in Southeastern Kansas, 1856-1859” (Masters Thesis, University of Kansas, 1938); and William A. Dobak, *Fort Riley and its Neighbors: Military Money and Economic Growth, 1853-1895* (Norman: University of Oklahoma Press, 1998).

they explain the unique relationship between the army, the federal government, and the people during that tumultuous decade.

Of the published works that emphasize the military aspects of “Bleeding Kansas,” still relevant is Jay Monaghan’s *Civil War on the Western Border, 1854-1865*. Monaghan concluded: “The disturbances in Kansas did not differ from what might be expected in any frontier land opening. With a little forbearance peace could easily have been maintained, but the slavery issue had become bigger than Kansas.”<sup>19</sup> But Kansas was different. And the debate over slavery extension made its experiences between 1854 and 1860 unique in American history. Monaghan made some interesting assessments in his story, but his book reads more like a historical novel than a scholarly analysis of the army’s role in Kansas.

The best overview to date on the army as a domestic peacekeeper during “Bleeding Kansas” is found in Robert Coakley’s superb chapters on the subject in *The Role of Federal Military Forces in Domestic Disorders, 1789-1878*. Coakley’s book is the first volume of the United State Army Center for Military History’s three-part assessment on the use of the army in domestic disturbances. Coakley’s volume ends with the passage of the Posse Comitatus Act of 1878, which effectively ended widespread use of the army as a domestic police force. The series stressed the subordination of the army to civil authority and the minimum use of force as twin hallmarks of federal intervention between 1789 and 1878.<sup>20</sup> While Coakley’s

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<sup>19</sup>Jay Monaghan, *Civil War on the Western Border, 1854-1865* (New York: Bonanza Books, 1955), 12.

<sup>20</sup>Robert W. Coakley, *The Role of Federal Military Forces in Domestic Disorders, 1789-1878* (Washington, D.C.: Government Printing Office, 1988).



assessment of the army in Kansas is a good overview on the way in which troops were used, it lacks the depth necessary to fully appreciate the issues and challenges the army faced as a peacemaker and as a peacekeeper between 1854 and 1856. It also excluded peace enforcement operations that did not directly involve white society.

This dissertation corrects significant omissions associated with the army's role as peace enforcer and peacekeeper in the trans-Missouri West and during "Bleeding Kansas" by investigating important issues that have been either overlooked by historians or that have not been fully addressed. The first two chapters provide a context in which to better understand the army and its role in ante-bellum society. The first chapter answers questions associated with the general expectations of the era. What did the federal and territorial government officials expect from the army? How did the army meet or fail to meet those expectations? Juxtaposed to federal expectations, what did the inhabitants of Kansas (settlers, indigenous peoples, emigrants) expect from the army? Was the army's purpose limited to protection of lines of communication and displacing American Indians? Or was the army seen as a territorial police force necessary to maintain peace, order, and security in the turbulent territory? And lastly, what did the army expect of themselves during the mid-1850s?

The second chapter looks at competing political objectives of the era. Did the objectives of the Pierce administration warrant the use of the regular army in domestic affairs? In the contest over control of the lines of communication that bisected lands occupied by Plains Indians that connected the Pacific coast with the

east, the answer appeared to be yes. But what about the use of the regular army as a peacekeeping force in Kansas, was it absolutely necessary to use the army as a posse comitatus in order to achieve peace, order, and security within territorial Kansas? The competing national and local political objectives in Kansas complicated the situation immensely. Given the Democratic party's objective to make popular sovereignty the preferred means to resolve the slavery extension question, the intent of the free state party within Kansas to bring Kansas into the Union as a free state, and the aim of the law and order party to make Kansas a slave state, the army was the only means available to create an environment by which the slavery extension debate could be settled peaceably.

The next four chapters explore how the American government used the army to achieve political objectives and how the army responded to those demands. Chapter three outlines the events and actions associated with the Sioux expedition of 1855. This "punitive" expedition was one of the first conducted against the Plains Indians and set important precedents for peace enforcement operations that followed. Not only did General Harney lead an expedition against the Brules and Miniconjous to enforce the terms of the Treaty of Fort Laramie, but he also served as the peacemaker once the various bands of the Lakota had agreed to comply with the government's demands for peace. The last three chapters focus exclusively on the role of the army as a peacekeeper in territorial Kansas. Army operations in Kansas proper were more politically sensitive and more nuanced than those against the Sioux. The army was expected to enforce the laws and treaties relevant to Kansas,

but more often than not army personnel found themselves in the middle of the debate. On the other hand, army officers were often wedged between land hungry settlers and various emigrant Indians in eastern Kansas. The former wanted the army to protect their interests and help the settlement process. The latter expected the army to meet the government's treaty obligations and protect their interests. To complicate matters even more, several army officers were themselves land speculators that placed them in positions that made resolution of conflict between settlers and Indians more problematic.

Chapters five and six provide further analysis of the dilemmas associated with domestic peacekeeping operations in the 1850s. Chapter five examines the command and control difficulties associated with conducting delicate domestic peace operations. Unlike the peace enforcement campaign against the Sioux, the manner in which the army conducted peace operations within Kansas had grave political outcomes. The dispersal of the Topeka legislature in July 1856 was just one example of how military actions complicated the political environment of the 1850s. Finally, chapter six explores the relationship of the army as a tool of government to achieve partisan political objectives. The longer violence persisted in Kansas and the closer the presidential election became, the more willing the Pierce administration was to use the army to pacify the turbulent territory to aid in James Buchanan's election. Without the army as a means to impose peace as a means to a political end, the Civil War could have occurred four years earlier. But regardless of what might have been, the use of the army as a domestic peacekeeping force raised relevant and timeless

questions concerning the role of the federal army in domestic disturbances. These questions and issues are not the only ones this dissertation addresses, but they are the most significant ones. The answers to these questions and the significance of these issues fill important gaps in the historiography of the army, the trans-Missouri West, and "Bleeding Kansas." They also enhance our understanding of on-going issues that make American civil-military relations such a fascinating field of study.

In answering these important questions, this dissertation seeks to plow new historiographical ground. This dissertation is the first to analyze the army's impact on territorial Kansas by thoroughly dissecting the communications infrastructure employed by the army during the 1850s. No historian has fully incorporated a complete analysis of the communication network in his or her assessments of "Bleeding Kansas." An in-depth discussion of the command, control, communications and intelligence (C3I) systems and processes used by the War Department during the 1850s will provide a new angle of vision in understanding not only what the army did in Kansas, but also why. New insights on the development of American civil-military relations and the problems associated with the use of federal force in domestic crises will be gained from this dissertation's assessment of C3I. This dissertation shows how important the communications infrastructure was to implementing government policy in Kansas.

This dissertation is also among the first to dissect the various strategies and tactics used by the army to conduct peacekeeping and peacemaking operations in Kansas. Some historians have provided adequate descriptions of the strategies

employed, but few have thoroughly analyzed the efficacy of those strategies. More importantly this dissertation evaluates the congruency of the various strategies and tactics used in territorial Kansas with the stated and implied political objectives of the era. The national command authorities (President and Secretary of War) tended to be more reactionary in their use of the army to pacify Kansas. Their strategy was to use the army as a peacemaking force only after an incident had occurred. The territorial command authorities (Governor and Secretary), on the other hand, were more often than not oriented toward deploying federal troops in areas where they anticipated a crisis. These conflicting strategies often left military commanders in Kansas in a quandary. Without federal approval, they were reluctant to give territorial civilian officials tactical or operational control of their forces. Once that authority had been granted to the Governor, military forces proved to be much more effective in maintaining the peace of the region. This dissertation also discerns why the Pierce administration was reluctant to give territorial officials control of federal troops located in Kansas, why the Pierce administration did in February 1856, and why the Pierce administration took it away in 1857.

Lastly, this dissertation comments on the state of professionalism in the army during the 1850s. William Skelton, Samuel Huntington, and Edward Coffman have written impressive studies on professionalism within the American army. The latter historians have stressed the rise of professionalism after the American Civil War while Skelton has argued that there were vestiges of professionalism prior to 1860. By using the army in ante-bellum Kansas as a case study, there is evidence to support

Skelton's conclusion. But there are also numerous examples of how the army officer corps fell short of professional standards in their conduct of peace operations during "Bleeding Kansas." This dissertation does not resolve the ongoing professionalism debate, but it will add a new perspective by evaluating the army from the challenges and issues associated with its peacekeeping and peacemaking missions in the 1850s.

In sum, this dissertation makes contributions towards a new understanding of American civil-military relations. The army's role as peacekeeper, peace enforcer, and peacemaker in the trans-Missouri West and in territorial Kansas provides a great deal of insight and understanding in to what American society expected from its military and how the military reacted to the call to perform domestic peace operations. The Sioux expedition of 1855 and "Bleeding Kansas" were not the only internal crises in our nation's past that required internal military action, but they certainly representative of some of the most problematic and complicated instances. By asking what was expected of the army by the government and the people, analyzing domestic peacekeeping strategies and tactics, and demonstrating the relationship of political objectives and the use of force in domestic disturbances, this dissertation offers a new line of historical inquiry into an old historiographical issue while providing insight into American notions of the role of the military in achieving and maintaining peace, order, and security.

## Chapter 1

### **Great Expectations, Limited Resources: The Frontier Army as a Constabulary Force, 1854-1856**

Philosophically, Hamilton and Jefferson represented polar visions of the character of the Union in the first generation under the Constitution, and defined certain fundamental issues of American life which still echo two centuries later. ... Hamilton feared anarchy and loved order; Jefferson feared tyranny and loved liberty.<sup>1</sup>

—George B. Tindall, *America*

From the beginning, the United States has sought to reconcile individual liberty with national security without becoming a nation in arms.<sup>2</sup>

—*American Military History*

The use of the regular army in domestic situations has always been problematic in American society. From the use of federalized militia forces to suppress the Whiskey Rebellion during George Washington's administration to contemporary discussions over the use of the regular army to enforce domestic law in the wake of the 11 September attacks on the World Trade Center and the Pentagon, the American public has been reluctant—short of national emergencies—to sanction the use of the regular military to maintain the laws and enforce the peace of the nation.<sup>3</sup> While few Americans today question the need for a relatively large standing army in peacetime, that assumption has not always been the norm.

Many of the United States founding fathers and early citizens were reluctant to create a standing army at all, let alone a sizeable force. Fears related to how such an army would be used and to what purposes it would serve for the common good

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<sup>1</sup> George Brown Tindall, *America: A Narrative History*, 2<sup>nd</sup> ed. (New York: W.W. Norton & Company, 1988), 312.

<sup>2</sup> *American Military History*, (Washington DC: Center of Military History, 1989), 14.

<sup>3</sup> For an example of recent discussions of posse comitatus and the American military, see Scott Lindlaw, "Military may enforce domestic law," *Montgomery Advertiser*, 22 July 2002, 5.

perplexed many in the early Republic. Serious questions remained unresolved when the United States won its independence from Great Britain. Two of the most significant questions centered on how large of a military force was needed and to what ends should a standing army be used in a free and democratic society. A large standing army in the hands of a strong executive could preserve order, but it could also threaten and undermine American civil liberties. A small army would be less threatening to civil liberties guaranteed under the Constitution, but it might not be able to maintain domestic order or to provide the security necessary to keep the country unified and free from all enemies foreign and domestic. Perhaps, no two architects of the American political system best characterized the internal security dilemma associated with the creation of a standing army in the early Republic and the associated liberty versus order debate more clearly than Alexander Hamilton and Thomas Jefferson.<sup>4</sup> Hamilton, for his part, envisioned a strong central government. In his mind, a powerful central government would have the means to provide for the nation's security while keeping order. Without a strong national government, Hamilton feared that the country would fall into anarchy thereby threatening or ending the American republican experiment.

Like Hamilton, Jefferson also had fears. He worried that too much power centralized in the hands of the federal government would threaten the cherished liberties for which Americans had fought and won their independence. Too much control—Jefferson believed—would lead to tyranny, undermining everything

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<sup>4</sup> Michael Morrison looks at the dilemma from the perspective of equality and liberty. See Morrison, *Slavery and the American West*, 255.



Americans had fought and had gained during the Revolution. Both Hamilton and Jefferson agreed that an army was essential to American security. But they disagreed on just about everything else associated with a standing army. The fundamental problem for American society in general and the military specifically was determining how large of an army and navy the country needed to maintain the order treasured by Hamilton while preserving the liberties beloved by Jefferson. The solution to America's security dilemma seemed to lay with a small standing army supplemented or augmented by state controlled and regulated militias, which could be federalized during national emergencies. This dual military solution effectively reduced the perceived threat to precious American liberties by dividing military power between the federal government and the various state governments. Yet ostensibly the regular army would be large enough to meet anticipated security challenges from external threats. Together, the small, but well regulated and controlled regular army, supported by the various state militias would combine when necessary to preserve the peace, order, and security of the United States.

### **Constitutional Expectations**

Once the Constitution replaced the Articles of Confederation as the accepted framework of American government, the United States had a much stronger central government than some would have liked. To ameliorate those fears of a concentration of power, the founding fathers limited and distributed power between

the various branches of the government.<sup>5</sup> In a similar vein, the Constitution divided control of the army in such a way as to prevent either the President or the Congress from using it for nefarious purposes. At the most fundamental level, the Constitution conferred upon Congress and the President certain statutory responsibilities in relation to the nation's military arm.

The Constitution designated the President as Commander-in-Chief of the armed forces, to include a federalized militia.<sup>6</sup> Congress, on the other hand, possessed the authority "to raise and support armies" and "to provide and maintain a navy."<sup>7</sup> The power of the purse was one of Congress's most potent weapons in controlling any executive misuse of the army. Without funds to arm, equip, and maintain the troops, the army would quickly evaporate as an effective coercive force. The two-year limit placed on army appropriations further enhanced Congress's ability to rein in the army when it saw fit to do so. Congress also possessed the authority to make the rules and approve the regulations that governed the armed forces. Most importantly in understanding the role of the army in domestic affairs, Congress maintained the initial authority to call up a militia force to "execute the Laws of the Union, suppress Insurrections and repel invasions."<sup>8</sup>

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<sup>5</sup> For more on the issues and debate affecting the establishment of a standing army, see Allan R. Millett and Peter Maslowski, *For the Common Defense: A Military History of the United States of America* (New York: The Free Press, 1984), 83-94.

<sup>6</sup> The Constitution of the United States, Article II, Section 2.

<sup>7</sup> The Constitution of the United States, Article I, Section 8.

<sup>8</sup> The Constitution of the United States, Article I, Section 8. See also, James G. Diehl, "The Cop and the Soldier: An Entangling Alliance? The Posse Comitatus Act and the National Security Strategy of Engagement and Enlargement," U.S. Army War College, Carlisle Barracks, PA, 1997, 1-9.

The first test of the government's constitutional authority to suppress insurrection or to subdue rebellion came when the Whiskey Rebellion erupted in western Pennsylvania during the early 1790s.<sup>9</sup> The manner in which President Washington orchestrated the government's response established the precedents by which all subsequent uses of federal military force in domestic disturbances were based prior to the Civil War. Those precedents were essential in understanding the legal parameters and presidential prerogatives Franklin Pierce and his administration followed when they used the army as a peacekeeping force to enforce the laws and prevent violence in Kansas between 1854 and 1856.

In the first modification to Congress's authority to call on the militia, the Calling Forth Act of 1792 gave the President the power to call out a federalized militia to "to enforce the laws of the Union or to protect states from domestic violence at their request."<sup>10</sup> This law gave Washington the legal authority to use the militia to subdue rebellious farmers in western Pennsylvania. Noticeably absent from the law, however, was the authority for the President to use the regular army for such purposes. Just as the Constitution had restricted Congress's authority to suppress insurrection to militia forces, so too did the 1792 act that guided the President's actions. The use of regular soldiers to enforce the law and uphold the authority of the central government so soon after the American Revolution could have been politically disastrous to the fledgling nation. Memories of British regulars enforcing

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<sup>9</sup> Millett and Maslowski, *For the Common Defense*, 93. Shays's Rebellion, which had occurred during the Confederation period, was stressed as an example of the federal government's need for more coercive power.

<sup>10</sup> Coakley, *Role of Federal Military Forces*, 346.

unpopular laws, quartering themselves in citizen's homes, and shooting civilians during the Boston Massacre were too fresh to allow for the federal government's use of the army for domestic disturbances. No one understood this better than Washington himself. Following the issuance of his proclamation to the "Whiskey Boys" to cease and desist from their rebellious activities, Washington confided his fears regarding the use of regulars in a letter to Alexander Hamilton.

I have no doubt but that the Proclamation will undergo many strictures; and as the effects proposed may not be answered by it; it will be necessary to look forward in time to ulterior arrangements; and here not only the Constitution and Laws must strictly govern; but the employing of regular troops avoided if it be possible to effect order without their aid; otherwise, there would be a cry at once, 'The Cat is let out; we now see, for what purpose an Army was raised.' Yet, if no other means will effectually answer, and the Constitution and the Laws will authorize these they must be used as the Dernier resort.<sup>11</sup>

Washington's fears and concerns regarding the use of regular forces in domestic disturbances would also haunt his successors.<sup>12</sup> By the time Franklin Pierce had to deal with insurrectionary elements in the Kansas Territory in the 1850s, the President had acquired greater legal leeway in using regular army troops to suppress insurrection and to aid in the execution of federal laws.

In the aftermath of the short-lived Whiskey rebellion, Congress passed a revised version of the Calling Forth Act of 1792. Like the earlier act, the Act of 1795 restricted the President to using militia forces in "overcoming resistance to federal authority." Between the period of the Whiskey Rebellion and the advent of the Burr Conspiracy, the president's statutory authority to use regular troops in certain

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<sup>11</sup> Coakley, *Role of Federal Military Forces*, 32.

<sup>12</sup> For more on the legal background of civil-military arrangements, see Elmer J. Mahoney, "The Constitutional Framework of Civil-Military Relations," in *Civil-Military Relations: Changing Concepts in the Seventies*, by Charles L. Cochran (New York: The Free Press, 1974), 34-41.

domestic situations expanded. The Neutrality Act of 1794, for example, allowed the use of "regulars or militia to prevent filibustering expeditions against powers with whom the United States was at peace."<sup>13</sup> The other change came following the Burr Conspiracy. Sensing a need to use regulars to suppress insurrection and to crush domestic conspiracies, Thomas Jefferson sought and received authority to choose between militia forces and regular troops.<sup>14</sup> Congress passed a law in 1807 that gave the president such an option.<sup>15</sup> After 1807, the Commander-in-Chief of the armed forces could use whichever military force he deemed appropriate to enforce the laws, suppress insurrection, or repel invasions. Given such legal latitude, presidents tended to choose regular forces over militia. Regulars were generally more disciplined, more national in their outlook, less susceptible to local prejudices, and functioned under a well-established chain of command.

Two other precedents bearing in the use of federal troops during the early years of territorial Kansas that enhanced the authority of the president to use regular army troops in domestic crises emerged from the enforcement of the Fugitive Slave Law in the early 1850s. Congress passed the Fugitive Slave Law as one of the five acts that comprised the Compromise of 1850. Passed largely to placate the South for its support of the other acts, many believed that the law would be difficult if not

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<sup>13</sup> Coakley, *Role of Federal Military Forces*, 346. See also Robert W. Coakley, "Federal Use of Militia and the National Guard in Civil Disturbances: The Whiskey Rebellion to Little Rock," in *Bayonets in the Streets: The Use of Civil Troops in Civil Disturbances*, edited by Robin Higham (Lawrence: The University Press of Kansas, 1969), 22-23.

<sup>14</sup> Coakley, "Federal Use of Militia," 23-24.

<sup>15</sup> James G. Diehl, "The Cop and the Soldier: An Entangling Alliance? The Posse Comitatus Act and the National Security Strategy of Engagement and Enlargement," U.S. Army War College, Carlisle Barracks, PA, 1997, 2-4.

impossible to enforce in northern, non-slaveholding states.<sup>16</sup> As a result of this fear, the first precedent that developed from the enforcement of the Fugitive Slave Law was something military historian Robert Coakley called the Fillmore Doctrine. President Millard Fillmore believed that it was his constitutional and moral duty to enforce the Fugitive Slave Law. Northern resistance to the law shortly after its passage soon tested Fillmore's commitment to enforce the act. After some Pennsylvanians refused to honor a warrant for the arrest of a fugitive slave and the posse assembled to execute the warrant refused to do so, a federal judge asked Fillmore if federal troops could be used to enforce the law if such obstructions continued. Fillmore pondered his options with his cabinet. All agreed that federal force could and should be used. But the problem was how to employ federal forces. Fillmore believed that as Commander-in-Chief he had the authority and the responsibility to uphold federal law. He presumed that there was no need to comply with the requirements from the 1807 law that called for a "cease and desist" proclamation prior to ordering regular troops to assist a Marshal as a posse comitatus. In the end, the cabinet determined that Marshals could summon both army and militia personnel to serve in their posses once a federal judge had issued a certificate certifying the necessity to do so without the prior issuance of a Presidential proclamation as specified in earlier laws.<sup>17</sup> In sum, the Fillmore Doctrine allowed local federal law enforcement officers to execute federal laws without prior

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<sup>16</sup> For more on the Compromise of 1850 see, Michael Holt, *The Political Crisis of the 1850s* (New York: W.W. Norton & Company, 1978), 67-99. See also, Tindall, *America*, 606-613.

<sup>17</sup> Coakley, *Role of Federal Military Forces*, 129.

Presidential approval as called for in the acts of 1795 and 1807. All that was required was a certificate from a federal judge verifying the need for a Marshal to employ federal troops to meet and overcome organized resistance to the laws of the United States.

A second precedent evolved from a later attempt to enforce the Fugitive Slave Law. The Cushing Doctrine, named after Pierce's Attorney General, provided yet another justification for the use of regular troops in domestic disturbances. Like the Fillmore Doctrine, the Cushing Doctrine outlined when and how federal troops could be used as a posse comitatus. In essence, the doctrine formalized the authority of a United States Marshal to use either militia forces or regular army forces to serve as a posse in the execution of federal laws. The critical aspect of the doctrine centered on the fact that the Marshal could call upon the army to furnish a posse on his own authority without going through a district judge or through the President.<sup>18</sup> Cushing's ruling restricted a Marshal to using this authority only when unlawful combinations opposed him in executing his duty.

The Cushing pronouncement, like its predecessor, was intended to expedite the enforcement of the Fugitive Slave Law. If a Marshal or federal judge had to ask for permission from the President to use the army or the militia to enforce the law, he would normally have to wait several days for a formal request to go from his location to Washington and back in order to do so. The existing communications

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<sup>18</sup> James G. Diehl, "The Cop and the Soldier: An Entangling Alliance? The Posse Comitatus Act and the National Security Strategy of Engagement and Enlargement," U.S. Army War College, Carlisle Barracks, PA, 1997, 2-5.

infrastructure was generally too slow to allow for rapid coordination between federal judges and the President. By delegating the authority use regular troops as members of a posse comitatus to certain federal law enforcement officials, federal Marshals could then expedite the legal process.

Although the Cushing Doctrine was rarely used and never challenged in court, it did establish a principle or precedent by which federal troops could be used by United States Marshals when they needed assistance to execute federal laws. Together, the Fillmore and Cushing Doctrines effectively delegated what had been a Presidential responsibility to United States Marshals and federal judges. These precedents were important in understanding why and how the government used the army as law enforcement tools in territorial Kansas.

### **General Expectations of the Government and the People**

Beyond Constitutional and other legal precedents guiding the role of the army as a law enforcement entity in American society, the government and the people of the United States had come to expect the army to perform other vital functions and missions. In addition to the occasional use of the army as a law enforcement tool, the American people first and foremost expected the army to provide for the physical security of the nation. Congress authorized and the nation had built various coastal fortifications to protect the country from assault from the sea. In conjunction with coastal defense, the regular army trained and organized its regiments to meet anticipated enemies drilled in the latest European military techniques. Eager to avoid a repeat of the disasters of the War of 1812, the army adopted European training



manual and tactics in hopes of bettering their performance should European armies attempt to invade the country from Canada or from some point along its lengthy eastern or southern shorelines.<sup>19</sup>

The strong emphasis on preparing for a European-based threat, however, tended to hinder army operations along the frontier regions of the country.<sup>20</sup> Infantry and artillery tactics designed to counter a British field army were woefully inadequate against the most common threat to American security interests in the trans-Missouri West—the various hostile Native American peoples that inhabited regions along American hinterlands.<sup>21</sup> Infantry and artillery regiments and batteries were generally too slow and cumbersome to respond to highly mobile Cheyenne, Sioux, and other Plains Indian threats. Cavalry or dragoon (mounted infantry) regiments became the preferred means to meet the security threats posed by relatively small but effective Plains Indian raids against distant outposts and settlements along the various trails to the Pacific and the American southwest. Because of their proximity to the Santa Fe, Oregon, and California trails, the federal government and the American people came to expect army forces posted at Fort Leavenworth and Fort Riley to provide protection of these vital lines of communication.

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<sup>19</sup> Colonel Dennis Drew and Donald M. Snow, *The Eagle's Talons: The American Experience at War* (Maxwell AFB, AL: Air University Press, 1988), 329. For more on the impact of the War of 1812 on Army operations, see Walter Kretchik, "Peering through the Mist: Doctrine as a Guide for U.S. Army Operations, 1775-2000" Ph.D. diss., University of Kansas, 2001, 60-67.

<sup>20</sup> Kretchik, "Peering through the Mist," 67. Kretchik cited individuals who argued that Great Britain, France and Spain as the greater threats to American security than "native tribes and criminals."

<sup>21</sup> Weigley, *The American Way of War*, 98. Weigley identified coastal defense and the Indian problem as the key American security issues in the first part of the nineteenth century.

The army's protection mission extended beyond the physical limits of the various trails; it also included the emigrants that traveled across them. The American people and the federal government expected and demanded protection of emigrants who made the dangerous journey from the east to points west.<sup>22</sup> This protection mission was one of the many functions that the army performed to aid in the colonization of the west.<sup>23</sup> The army—through its array of strategically located installations—was expected to protect local inhabitants as well. Not all emigrants intended to go all the way to the Pacific coast. After 1854, many settlers looked to re-establish their lives in the recently-formed territories of Kansas and Nebraska. Once in these territories, these newly-arrived emigrants looked to the nearby army posts for protection of their lives and property.

They also looked to local fortifications, Fort Leavenworth or Fort Riley in Kansas and Fort Kearney in Nebraska, to provide economic as well as physical security to the newly established towns and communities that resulted from the massive influx of settlers entering from the east. These forts served as vital economic centers. Fort Leavenworth in particular was one of the most important sources of much needed capital. The significant amount of payrolls and hard currency that flowed to and through Fort Leavenworth guaranteed a readily available supply of money necessary to purchase land, establish town sites, or construct businesses. Settlers could purchase used or surplus horses and mules and other valuable

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<sup>22</sup> House Joint Resolution No. 27, Washington Territory, Letters Received Adjutant Generals Office, National Archive and Records Administration, [Hereafter cited as LRAGO], Roll 572.

<sup>23</sup> For an example of an emigrant escort request, see Major Cady to Major Page, 5 May 1854, Letters Received, Department of the West, National Archives and Records Administration, RG-393. Hereafter cited as LR/DW.

equipment from the forts at relatively inexpensive prices. The soldiers stationed at these forts provided sources of income to enterprising merchants who settled in the vicinity of military posts.<sup>24</sup> In sum, the government and the people relied upon the army to protect the vital lines of communication that emanated from Independence and St Joseph as well as to shield the American citizens who traversed them. For those who decided to settle in Kansas or other locations near military installations, they came to expect economic security from the army as well.

Within the scope of its protection mission, the government and the American people looked to the army to provide military escorts for a myriad of purposes. Perhaps the most important of the escort requirements was to aid in the protection of the mails that transited the plains. Mail contractors often stipulated a requirement for military escorts in their government contracts.<sup>25</sup> Without protection from marauding bands of Indians or mail robbers, many contractors would have refused to deliver the mails. Mail escort was certainly not the most glamorous duty, but Americans expected the army to do it.

The army also provided escorts for other critical functions. Government contractors, such as bridge construction parties, often asked for and generally received escorts when required. Building bridges throughout Kansas was dangerous enough without the threat of Indian attack. Federal officials who traveled across the

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<sup>24</sup> Leo E. Oliva, "The Army and Continental Expansion," in *The United States Army in Peacetime* (Manhattan, KS: Military Affairs/Aerospace Historian Publishing, 1975), 22. For more on these issues see, Dobak, *Fort Riley and its Neighbors*. See also, Elvid Hunt, *History of Fort Leavenworth, 1827-1937*, 2<sup>nd</sup> Ed., (Fort Leavenworth, KS: The Command and General Staff School Press, 1937).

<sup>25</sup> "Mail Arrangement," *St Louis Republican*, 28 December 1854, 2. For an example of the impact of Indian hostilities on mail delivery and the need for army escorts see, William M.F. Magraw, House Report 6, 34<sup>th</sup> Cong., 1<sup>st</sup> Sess. Col Fauntleroy to Major Page, telegram, 29 April 1854, LR/DW.

plains asked for and normally received escorts along their travel routes. From territorial officers going from Fort Leavenworth to Salt Lake City to Indian Agents traveling to their respective tribes to distribute annuities, the army was expected to provide protection. The army even provided escorts for its own needs. The paymaster at Fort Leavenworth, for example, would request an escort of ten men to protect him on his journey to the various forts within his pay region. The large amount of public money involved in the paymaster's duties necessitated the escort requirement.<sup>26</sup> Because of the institutional separation between line and staff functions in the army, the paymaster at Fort Leavenworth had to request this type of support from the Department of the West. Instead of simply asking the post commander at Fort Leavenworth for an escort, the paymaster had to request approval from the departmental commander. If approved, the commanding general would then order the commanding officer at Fort Leavenworth to supply the escort.

Despite its mundane character, escort duty was one of the army's most important functions within the Department of the West. The army generally met governmental expectations, but there were times and situations when it was not able to perform escort missions. The army's peacekeeping mission in territorial Kansas and its peace enforcement campaign against the Sioux were two examples of how higher priority missions and limited manpower prevented the army from meeting those types of expectations.

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<sup>26</sup> A. Cumming, Superintendent of Indian Affairs to Major George Deas, Assistant Adjutant General, DW, Fort Leavenworth, 1 November 1856, RG 393, Pt 1, LR/DW; J.O. Sawyer to Brig Gen Newman Clarke, Department of the West, St Louis, Mo., 18 June 1856, LRAGO, Roll 548; and Sackfield Maclin, Paymaster, Fort Leavenworth, to Major Francis Page, Assistant Adjutant General, Jefferson Barracks, Mo., 15 March 1854, LR/DW.

Beyond providing physical and economic security, the government and the people expected the army to deter hostile Indian threats and, if necessary, to conduct military operations against hostile indigenous peoples when the latter posed a threat to frontier security.<sup>27</sup> The federal government had negotiated peace treaties with virtually all Native American peoples in the vicinity of Kansas, Nebraska, and along the various lines of communication to the west and southwest. On occasion, Indian attacks on emigrant trains, mail contractors, or white settlements necessitated the need for the army to conduct peace enforcement operations. Most government officials, army commanders, and local settlers believed that the best way to react to these attacks was to punish the recalcitrant tribes by using both the military and economic instruments of power available to the government. Depending on the severity and consequences of a hostile Indian attack, the army was expected to re-establish or impose peace between indigenous peoples and the American government by force.<sup>28</sup> Treaty violations were also handled by economic coercion. The Interior Department often withheld annuities and supplies from tribes that participated in or who were suspected of supporting attacks against citizens or representatives of the United States.

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<sup>27</sup> For examples see, "Indian Warfare—The Army," *St Louis Republican*, 31 December 1854, 2; Charles C. Spalding to Buchanan, 21 June 1857, LAGO, Roll 570. Spalding enclosed a clipping from the *Kansas City Enterprise* that expressed concerns over Indian affairs in the plains; "Report of the Secretary of War," *St Louis Republican*, 10 December 1854, 2. For other examples, see A.C. Dodge et al to Davis, 14 Mar 1855, LAGO and Samuel Curtis to AGO, 2 Oct 1855, LAGO. Curtis believed that the Sioux Expedition would only incite the Sioux to attack frontier settlements. See also "From Washington," *St Louis Republican*, 23 August 1855, 2. See also "Pierce to Congress," 16 January 1855 in Richardson, *Messages and Papers*, Vol. 5, 297-298.

<sup>28</sup> "Indian Warfare—The Army," *St Louis Republican*, 31 December 1854, 2.

The army's mission to provide for the security of settlers and emigrants was complicated by several factors. One of the more obvious factors was the lack of manpower. The Congress authorized 13,821 troops in 1853 but the army only had 10,417 men to fill those positions. The overall force was "far too small to accomplish its major mission: Protection of settlers on the advancing frontier."<sup>29</sup> Another limitation upon army effectiveness was the legal if not the moral requirement to protect friendly Indians.<sup>30</sup> The federal government promised the protection of the United States to each of the tribes that had been forced from their native regions east of the Mississippi River and removed to lands west of the state of Missouri. From 1825—when the government concluded the first of many treaties that began the process of removal—until 1843, when the Sac and Fox finalized a treaty that sent them to Kansas, the United States government sought to resolve the Indian "problem" by negotiation and through a concerted policy of physical removal. The removal of Indian peoples such as the Delaware, the Pottawatomie, Wyandots, Shawnee, Kickapoo, and Miami to lands in what would become the Kansas Territory in 1854 created a significant problem for the government and the army.

Once the Kansas-Nebraska Act became law in May 1854, it became increasingly difficult for the army to enforce treaty stipulations or federal laws that prevented white settlement on Indian lands until the title to such lands had been properly extinguished. Even before the act became law, squatters and land

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<sup>29</sup> Cooper, *Jefferson Davis*, 245 and 249. See also "Pierce to Congress," 16 January 1855 in Richardson, *Messages and Papers*, Vol. 5, 297-298.

<sup>30</sup> Skaggs, David C. Jr., "Military Contributions to the Development of Territorial Kansas" Masters Thesis, University of Kansas, 1960, 38.

speculators had pre-empted choice acreage in eastern Kansas. Some areas were clearly within previously delineated sections designated as Indian reserves. Other pre-empted sites fell within what were claimed to be undesignated—and therefore unclaimed—portions of Kansas. Regardless of where white settlers and speculators placed their pre-emption markers, they were unlawful. Despite the blatant illegality of their actions and without the use of force to prevent them, squatters and speculators competed for the most enticing plots of Indian reserve lands. As the numbers of whites invading the territory increased, the army and the government found themselves in an unpleasant and awkward situation. Given treaty requirements and the Interior Department's responsibility and commitment to uphold those treaties, the crucial dilemma for the army centered on how it could or should protect Indian lands from "illegal" white settlement. If squatters tried to pre-empt Indian lands, should the army forcibly remove white intruders?<sup>31</sup>

From the army's perspective, military leaders were indeed caught between two incompatible expectations. On the one hand, the government and most of the American people expected the army to protect American citizens as they settled in Kansas and Nebraska. On the other hand, the government expected the army to protect emigrant Indians living in eastern Kansas in accordance with treaty and other statutory stipulations. Those citizens that chose to emigrate to the West expected the army to protect them and their property from hostile Indians. Friendly Indians in Kansas expected the government and the army to protect their interests and honor the

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<sup>31</sup>Skaggs, "Military Contributions," 39.

treaty stipulations requiring them to do so.<sup>32</sup> The Interior Department, which had taken over the Bureau of Indian Affairs and responsibility for Indian issues from the War Department in 1849, possessed the responsibility to uphold treaty obligations.<sup>33</sup> Yet the Interior Department had no coercive means of enforcing the American citizenry to comply with treaty requirements. Government representatives could gain compliance among indigenous peoples by withholding annuity payments, but the Interior Department's Indian Agents had to rely on the army or other federal law enforcement officials such as United States Marshals if they wanted to ensure that American citizens—whether they were squatters or speculators—complied with the agreements between the government and the various tribes that were removed to Kansas.

These conflicting expectations placed the army and its commanders in Kansas in an unenviable position. Anticipating that it would be a matter of time before most if not all of the Indian titles to lands in Kansas would be extinguished, the federal and territorial government generally found it unpopular and politically dangerous to remove white intruders from Indian lands.<sup>34</sup> Local Indian leaders and their communities, on the other hand, expected the Interior Department and the federal government to protect their rights. The Commissioner of Indian Affairs, George W. Manypenny, and most of the local Indian Agents in Kansas saw it as their moral and legal duty to keep white intruders off Indian lands until Indian titles to those lands

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<sup>32</sup> Craig Miner and William E. Unrau, *The End of Indian Kansas: A Study of Cultural Revolution, 1854-1871*, (Lawrence: University Press of Kansas, 1990), 14.

<sup>33</sup> Utley, *Frontiersmen in Blue*, 10-11.

<sup>34</sup> 20 July 1854 Ogden letter from Weston Reporter in *St Louis Republican*, 31 July 1854, 1.



had been properly extinguished and the Indians rightfully compensated. In accordance with the Indian Intercourse Act of 1834 and other legal precedents, the President maintained the authority to forcibly remove anyone who attempted to settle "illegally" on Indian lands.<sup>35</sup> As Commander-in-Chief, the President could authorize the use of federal troops to remove intruders. To do so, he had the authority to direct the Secretary of War to order his commanders in the vicinity of a particular tribe whose lands were occupied by squatters to comply with the assigned Indian Agent's request to use troops to evict them. But before whites or any other intruders could be physically removed, government protocol required the Indian Agent to issue a proclamation to the violators informing them of their illegal action and giving them notice to leave within a "reasonable" period of time. If the intruders failed to comply, they could expect to be evicted by the army.

The army did conduct a few removal operations between the passage of the Kansas-Nebraska Act and the beginning of the Civil War. Unfortunately for the Delaware and other emigrant Indians in Kansas, they were too few and too infrequent to stem the tide of illegal white settlement. Several factors complicated the army's eviction operations. One of the problems was the army's reluctance to remove fellow citizens from Indian lands that were soon to be open to settlement anyway. This notion was further complicated when Congress passed a statute in July 1854 which "allowed all Indian lands to which title had been or should be extinguished to come

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<sup>35</sup> An Act to Regulate Trade and Intercourse with Indian Tribes, and to Preserve Peace on the Frontiers, 30 June 1834, 3, RG-393, NARA, Box 2. See also Miner and Unrau, *End of Indian Kansas*, 10.

under the very liberal provisions of Preemption Act of 1841.”<sup>36</sup> The legal ambiguity created by the congressional act was enough to encourage even more settlers to squat and speculate on Indian lands. Despite the legal opinion of the Attorney General that the July act did not apply to lands governed by the Delaware treaty of May 1854, whites continued to move onto Delaware lands and to establish claims. As time passed and more whites moved into the territory, the Delaware agent simply gave up the fight to have the intruders removed.

Historians Craig Miner and William E. Unrau blamed part of the problem on how the Interior Department bureaucracy functioned.<sup>37</sup> The slow communication paths to Washington limited the options available to local agents in their attempts to enforce the applicable laws and treaties. Before they could ask the local military commanders for military assistance, Indian agents had to forward their request through the Interior Department’s chain of command.<sup>38</sup> Regarding the Delaware situation, for example, their Indian Agent, B.F. Robinson, just had to send a removal request through the Superintendent of Indian Affairs office in St Louis. From there the Superintendent would send the Agent’s application to the Commissioner of Indian Affairs, George Manypenny, in Washington. If the Commissioner approved the request, he would forward it to the Interior Secretary, Robert McClelland. Once McClelland made his decision, it would either end there or he would ask the President for his approval to use troops to evict the intruders. If the President agreed,

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<sup>36</sup> Miner and Unrau, *End of Indian Kansas*, 14.

<sup>37</sup> Miner and Unrau, *End of Indian Kansas*, 59.

<sup>38</sup> Department of the West, Assistant Adjutant General to Colonel Clarke, 4 May 1854, Department of the West, Endorsements Sent, December 1853-October 1861, RG 393, Part 1.

he would direct the War Department to provide the necessary troops to aid the local agent in removing the illegal settlers. By the time a request reached the Secretary of War, weeks if not months could have passed while more squatters moved onto Indian lands.

Those intruders that were already there continued to improve the land and establish permanent homes for themselves in accordance with what they believed to be their preemption rights under the 1841 law. By the time orders from the War Department flowed down its chain of command through the Adjutant General's Office to the Department of the West Headquarters in St Louis to the respective commanders at either Fort Leavenworth or Fort Riley, even more delays had occurred. Without some sort of local authority to request and use military force as had been given Marshals to enforce federal laws, Indian Agents were at the mercy of the existing communications infrastructure and the government's bureaucracy in their attempts to support and defend their Indian clients.

Perhaps the most contemptible aspect of the intruder removal process was the fact that several of the army officers assigned to Fort Leavenworth and Fort Riley were land speculators themselves. Two officers assigned to Fort Leavenworth were charter members of the Leavenworth Association that marked out a town site just south of the post in violation of the Delaware Treaty of May 1854. By participating in a town association, the officers had committed no crime. But once the association took active measures to pre-empt a town site on land belonging to the Delawares, they were just as guilty as the 30 civilians who invested in the town of Leavenworth.

Had the commander at Fort Leavenworth complied with the Delaware Indian Agent's request to evict all intruders from what would become Leavenworth City, he would have ruined the investments of fellow officers and in this case his own investment opportunities as well.<sup>39</sup> This obvious conflict of interest created a delicate situation for the army and the government. This particular issue regarding the expected conduct of army officers is addressed more thoroughly in chapter four.

By the time hostilities commenced in Kansas, the American people and the federal government expected members of the army to conduct themselves in a socially and politically acceptable manner. One of the most basic expectations regarding the military as a whole was its subordination to civilian authority.<sup>40</sup> American fears of military usurpation of civil liberties or the use of the army for political repression were aroused once again during "Bleeding Kansas." As tensions mounted in Kansas following the so-called Wakarusa War of 1855, the army units in Kansas were expected to maintain order and provide security for all involved. The federal government had hoped to keep the army out of the political events associated with Kansas. When territorial officials and the territorial militia proved inadequate to contain or eradicate the violence that developed in Kansas, the federal government had little choice but to use the army to quell the hostilities and maintain the legitimacy of the territorial government by aiding civilian authorities in the enforcement of its laws.

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<sup>39</sup> Francis N. Page to Colonel Thomas Fauntleroy, 1 June 1854, Captain F.E. Hunt to McHolland et al, 10 July 1854, and B.F. Stringfellow et al to Captain F.E. Hunt, 17 July 1854, Weston, Missouri all printed in *St Louis Republican*, 31 July 1854, 1. See also "Delaware Lands Open for Settlement," *St Louis Republican*, 31 July 1854, 1.

<sup>40</sup> Coakley, *Role of Federal Military Forces*, v.

As the territory's only effective peacekeepers, the army was expected to act impartially in executing this delicate duty.<sup>41</sup> The Organic Act establishing Kansas and Nebraska had denied suffrage to officers and soldiers posted in the territories. Unfortunately for those in the army, it was extremely difficult to remain truly impartial regarding Kansas affairs. Criticism of the assistant quartermaster at Fort Leavenworth, Major E.A. Ogden, was just one example of how difficult it was for army officers to maintain a perception of neutrality. Pro-slavery oriented Missouri newspapers chastised Ogden for importing free-soil supporters into Kansas from the north.<sup>42</sup> While it was true that Ogden had recruited northern men to construct facilities at Fort Riley, they were hired as government contractors when no qualified locals could be found to accomplish the necessary work. Whether Ogden hired these men to swell the ranks of the free state contingent in Kansas or simply because they were the best men available did not really matter. In the emotionally laden territory, as long as some pro-slavery supporters interpreted Ogden's actions as favoring the free state cause there was little reason to determine what his actual motives were.

Throughout the "Bleeding Kansas" ordeal, army officers in Kansas found themselves in situations where their impartiality was questioned by one side or the other. The intensely hostile emotions involved between free-state supporters and pro-slavery advocates made neutrality almost impossible to maintain. Besides Major Ogden, other officers were criticized for supporting one side or the other. Governor James Denver asked the Fort Leavenworth commander to replace Captain George

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<sup>41</sup> Shannon to Sumner, 20 April 1856, *Transactions*, IV, KSHS, 409.

<sup>42</sup> "Nebraska Convention at St Joseph," *St Louis Republican*, 1 February 1854, 2.

Anderson, a native Georgian, with a more discrete officer.<sup>43</sup> Anderson commanded a contingent of regulars detached to Fort Scott as part of a peacekeeping effort in the troubled southeastern portion of the territory. When Denver received credible complaints of Anderson's pro-slavery proclivities and after hearing rumors of some of Anderson's men participating in pro-slavery bushwhacking activities, the governor demanded a change in leadership. Anderson was quickly relived and replaced with a more acceptable and more politically neutral officer—Captain T.J. Wood.<sup>44</sup>

Some free-state activists went so far as to brand all officers at Fort Leavenworth as pro-slavery supporters. Samuel N. Wood made this claim in a letter to the New York *Herald*.<sup>45</sup> Wood's claim was exaggerated and he offered little evidence to support his views. But the significance of his opinion was the fact that it was spread throughout the country. True or false, it was in print. And once in print, people could either accept or reject Wood's assessment. Other officers were branded as avid free-state supporters. Despite his self-proclaimed neutrality regarding his actions as commanding officer at Fort Leavenworth, both sides complained of Colonel Edwin V. Sumner's political preferences. Free-staters condemned his dispersal of the free-state legislature in Topeka on 4 July 1856. Pro-slavery advocates tended to believe that he was a secret free-state supporter. After all, Sumner was not only a Yankee; he was distantly related to one of the most outspoken free state politicians of all time—Senator Charles Sumner of Massachusetts, who, six

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<sup>43</sup> Skaggs, "Military Contributions," 75-77. See also Harry E. Westerhaus, Jr., "The Administration of James W. Denver," Master's Thesis, University of Kansas, 1959, 122 and 149. Anderson remained at Fort Scott but Wood was the senior officer. Anderson later resigned his commission on 11 June 1858.

<sup>44</sup> Skaggs, "Military Contributions," 76.

<sup>45</sup> "Interesting from Kansas," *St Louis Republican*, 19 July 1854, 2.

weeks earlier, had been caned after delivering “The Crime Against Kansas” speech. Pro-slavery supporters also labeled Captain Nathaniel Lyon of Fort Riley as a free-state fanatic. Yet Lyon, who would later die at Wilson’s Creek fighting for the Union, maintained a fairly healthy correspondence concerning land speculations in and around Fort Riley with the most zealous of pro-slavery spokesman—Senator David Rice Atchison of Missouri.<sup>46</sup>

The need for perceived impartiality among army officers and their men during “Bleeding Kansas” was unquestioned. As a general rule, the federal government and most American citizens demanded an impartial military force when the army performed constabulary duties. A military that favored one side was perceived as a tool of political coercion. And since the Democrats controlled the Executive branch, they would bear the brunt of criticism of any perceived misuse of the nation’s regular army. Because of the political sensitivity of using regular troops in a domestic disturbance, the President and his cabinet were particularly cautious in how they employed the army in Kansas. They undoubtedly expected their commanders in the field to comply with their written and verbal instructions.

The difficulty of orchestrating a successful peacekeeping mission from far away Washington centered on a timely and reliable command and control network. Although generally reliable, the command and control procedures that existed during the mid-1850s were not as efficient as they could have been. Despite the command

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<sup>46</sup> Captain Nathaniel Lyon to David Rice Atchison, 8 June 1855, Atchison Collection, Western Historical Manuscript Collection, Columbia, MO. For another example, see Brevet Major Ruff to Cooper, 13 November 1856, LLAGO, Roll 547. Ruff denied accusations that he was present with the pro-slavery contingent at Franklin Road that threatened Lawrence in September.

and control problems associated with the use of troops as peacekeepers in Kansas, most officers attempted to perform their peacekeeping duties in the spirit of the strictest neutrality. Yet, no matter how impartial the army might be to the objective observer, invariably the army's actions were perceived to favor one faction or the other.

### **Internal Expectations**

In addition to meeting the government's and the American people's expectations in Kansas and the trans-Missouri West, the army sought to meet its own aims. These internal expectations can best be seen in the various Inspector General reports that the army published in the 1850s. One of the most informative reports detailing expectations and how well army units within the Department of the West's area of responsibility met those expectations was Major Oscar F. Winship's inspection report of eight frontier posts in 1854. As the Assistant Adjutant General for the Department of the West, one of Major Winship's routine tasks was to conduct inspections within the Department's vast area of responsibility. Once the Commanding General in New York ordered the inspection, the Departmental commander, Major General David E. Twiggs, deployed Winship to St Paul, Minnesota Territory to begin the required inspections.

Winship's tour began with Fort Snelling, located just west from St Paul across the Mississippi River. He worked his way through the other two posts in Minnesota before returning to St Louis in preparation for his inspection of the Kansas forts. The timing of Winship's inspection was fortuitous because it occurred shortly after the



passage if the Kansas-Nebraska Act, but before there was any need for the army to conduct peace operations among white settlers within the Kansas Territory. The Major's final report was significant because it reflected what the army expected of its military installations and its soldiers deployed on the western frontier. These reflections highlighted what the army thought was important in meeting its external expectations. Granted Winship's views are those of only one officer, but as an inspector it was his duty to provide professional observations and comments on those areas that were viewed as important by his superiors.

After departing St Louis on 15 June, Winship arrived at Fort Leavenworth five days later. He honestly thought that Fort Leavenworth was near the end of its usefulness when he began his inspection. Because the territorial capital would be located there, at least temporarily, and because the War Department expected Fort Riley to assume depot responsibility for forts further west, Winship probably contributed to the rumors that the government would soon close the installation. Such views increased the desire of speculators and squatters wanting to get a "jump" on lands in proximity to the twenty-seven year old post.<sup>47</sup>

Winship's inspection protocol required him to evaluate two major areas—operational readiness and combat support services. The former included evaluations of the assigned troops' ability to conduct tactical maneuvers through requisite drills. Winship also evaluated the troops' discipline, personal appearance, soldierly bearing,

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<sup>47</sup> Major O.F. Winship, Major, Asst Adjutant General, USA, "Report of an Inspection of Forts Ripley, Ridgely, Snelling, Kearney, Riley, Leavenworth, and Atkinson, 1854," LLAGO, Roll 508, 38. Hereafter cited as 1854 IG Report.

and the condition of their arms when he assessed their overall combat effectiveness.<sup>48</sup> Since Fort Leavenworth was home to a dragoon regiment, Winship expected the regiment assigned there to perform to standards outlined in army regulations. He found the officers assigned to the fort to be credible in their conduct of the inspection drills. But the non-commissioned officers and privates “plainly showed that they had not been recently practiced in them.”<sup>49</sup> Most disconcerting to Winship was the fact that the regimental band could not perform while mounted. Nothing could be more embarrassing for a dragoon or a cavalry regiment than to have it documented that they could not ride their mounts effectively. Fortunately, the regimental band was not the most critical element of Fort Leavenworth’s combat capability.

There were other problems that Winship discovered during his inspection that impacted on Leavenworth’s operational readiness. The quality of stabling facilities was one of the most significant problems. According to Winship, the stables at Fort Leavenworth were “the poorest” that he had ever encountered in the army.<sup>50</sup> Poor or dilapidated stabling facilities were detrimental in two ways. They adversely affected the health of the animals housed in them and, given their unfortunate locations; they posed a physical danger to the soldiers as well. When it rained at Fort Leavenworth the dirt foundations of the stables had a tendency to turn into a thick, gooey mud hindering man and beast alike. Without strong and capable horses, the dragoons and light artillery units assigned to Fort Leavenworth could be severely degraded. If they

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<sup>48</sup> Winship’s authorization came with Department of the West, Special Order No. 36, 1 May 1854 in 1854 IG Report, 41.

<sup>49</sup> 1854 IG Report, 41.

<sup>50</sup> 1854 IG Report, 40.

were expected to be combat ready, Winship stressed the need to have better stables and sufficient numbers of trained personnel to meet combat requirements.<sup>51</sup>

The combat support functions at Fort Leavenworth fared much better in Winship's report. He found the living quarters, the kitchens, and the mess rooms to be in good order. The various company and post books were "neatly and regularly kept" implying sufficient detail to accepted accounting procedures. The ordnance and ordnance storage facilities were adequate. Winship was particularly impressed with the quartermaster's department operations at Fort Leavenworth. Major Ogden, the land speculator and accused free-state supporter, directed those operations. Because of the fort's strategic location on the Missouri River and its proximity to the major lines of communication, Fort Leavenworth's quartermaster "operations were among the largest and most important in the army supplying all of the territories of Kansas, Nebraska, and New Mexico."<sup>52</sup> Winship felt that Ogden had handled his vast responsibilities well. Ogden's bookkeeping also impressed Winship. The Assistant Quartermaster had dispersed more than \$1,750,000s in public moneys since 1849 and he had accounted for every penny. Also impressive was the ability of the Fort Leavenworth to produce a profit from its post farms. Between 1850 and 1853, the over 2000 acres of cultivated lands on or near the military reserve had produced a profit of over \$28,000.<sup>53</sup> The subsistence department, medical department, and pay department all met Winship's expectations for performance and accountability.

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<sup>51</sup> 1854 IG Report, 46.

<sup>52</sup> 1854 IG Report, 48.

<sup>53</sup> 1854 IG Report, 50-51. For more information on army farming see, "No More Army Farms," *St Louis Republican*, 24 February 1854, 2.

After completing his inspection of Fort Leavenworth, Winship made the three-day journey to Fort Riley to inspect that post. His assessment of Riley followed the same pattern used at Leavenworth. Winship was unimpressed with the garrison's drill and review performance. He commented unfavorably on their "sorry appearance on parade."<sup>54</sup> But given Fort Riley's newness, Winship understood why the troops were not as prepared as they should have been. The noticeable lack of training of new recruits resulted from the need to put them to work finishing building required structures. The commanding officer, Lieutenant Colonel William Montgomery, apparently conducted no field exercises once new recruits arrived. But they were—Winship mused—quite proficient in stone quarrying. Montgomery was obviously more concerned about finishing the fort than performing training activities. Nonetheless, Winship felt that the Montgomery should have done more to prepare the troops for combat against hostile Indians in support of the army's mission to protect lines of communication and emigrants traveling along those routes.

Major Winship reported a total strength of 210 officers and men at Fort Leavenworth out of an authorized 236. Fort Riley housed 217 out of 234. Combined these posts and their 400-470 men were expected to protect lines of communications, shield emigrants from harm, deter hostile Indian aggression, and protect friendly Indians and their lands in Kansas. Leavenworth and Riley were not, however, expected to perform these missions alone. A chain of forts extending from Minnesota through what would become the Dakotas down to Santa Fe and back to Texas

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<sup>54</sup> 1854 IG Report, 60.

contributed to a vertical line of military installations that existed to provide for the defense of the frontier. A horizontal line of fortifications extending from Fort Leavenworth to Fort Kearney in Nebraska and to forts along the Oregon and California Trails performed the same missions towards Salt Lake City and the far west. Almost all of these posts fell within the command of the Department of the West. Those in Texas and New Mexico had their own departmental commanders. But virtually every other post from Fort Ridgely in Minnesota south to what is now Oklahoma and from Fort Leavenworth west to the Rocky Mountains came under the responsibility of the Department of the West.<sup>55</sup>



Figure 1, Department of the West Area of Responsibility, 1855<sup>56</sup>

<sup>55</sup> Raphael P. Thian, *Notes Illustrating the Military Geography of the United States, 1813-1880*, (Austin: University of Texas Press, 1979), 105-106.

<sup>56</sup> Map taken from inside cover of *The Papers of Jefferson Davis* Vol. 5, 1853-1855, (Baton Rouge: Louisiana State University Press, 1985).

From its headquarters near St Louis, the Department of the West orchestrated campaigns against recalcitrant Indians, coordinated supply requirements for the theater, equipped various topographical and punitive expeditions, and determined personnel requirements for its theater of operations. To perform these vital functions, the Department maintained a small staff of officers and support personnel. Each of these departmental officers functioned as a liaison with his counterpart in Washington. The departmental quartermaster, for example, coordinated transportation requirements with the Quartermaster General's office. The pay and subsistence officers did the same with their respective Washington counterparts. These staff duties were extremely important for the Department's smooth and efficient operations. Because the headquarters was fairly centrally located near St Louis, the far-flung posts within the department's area of responsibility could communicate more easily with St Louis than with Washington or New York. Granted there were significant delays in getting communications from distant outposts such as Fort Laramie to St Louis, but the department headquarters was still at least sixteen days closer by mail to Laramie round trip than it was to Washington.<sup>57</sup>

Besides the daily operations requirements of feeding, housing, and supplying the myriad of posts within its area of responsibility, the most important function the department performed was to ensure that its forces were properly prepared to conduct combat operations. In his inspection report, Major Winship devoted a great deal of

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<sup>57</sup> Based on dates sent and dates received indicated on correspondence between St Louis, Fort Leavenworth, and Fort Riley and the AGO in 1854, it took an average of 8.15 days to go from St Louis to Washington, 15.2 days between Fort Leavenworth, and Washington and 19.5 days between Fort Riley and Washington.

ink in defining and describing what and who constituted the greatest threats to peace, order and security within the department's geographic area of responsibility. Those threats, of course, centered on the various indigenous peoples that resided near frontier settlements and those that inhabited great expanses of territory across the whole of the central and northern plains.

Winship believed that the army had sufficient information about those tribes that lived in close proximity to military installations near the Missouri and Arkansas Rivers. The vast majority if these peoples were Indians that had been relocated from the east to "permanent" settlements west of Missouri and Iowa. The Delaware, Potowatomi, Shawnee, Ottawa, and Kickapoo were just a few of the peoples that had been reestablished in what would become known as the Kansas Territory. Other than the Osages, who had developed a rather successful horse trade, Winship felt that there was no significant threat. The lack of a clear threat meant that there was no need to garrison troops among these "friendly" tribes. Should any of these tribes pose a security threat in Kansas, Winship believed that any of the garrison posts, such as Fort Leavenworth, had ample manpower and sufficient capability to pacify or subdue them. More than likely, however, military force would not be needed to persuade these friendly Indians to comply with government policies. Economic coercion through the government's control over annuities, Winship believed, provided the strongest hold over these particular tribes.<sup>58</sup>

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<sup>58</sup> IG Report, 114.

“With the great nomadic tribes of the plains,” Winship observed, “it is very different.”<sup>59</sup> These tribes, which, for the most part, included the various bands of Cheyenne and Sioux, were not as responsive to the government’s economic instrument of power. They were not as dependent on government annuities for their physical existence. Because of their independence, Winship concluded that peace with these indigenous peoples could not be purchased like it had been with others. Given those circumstances, Winship stressed the need for the government to first use its military power against them before exposing these nomadic savages to the “justice and magnanimity of the Government and people of the United States.”<sup>60</sup> If the government was to “protect citizens in all their legitimate pursuits,” Winship concluded that the government had two choices. “Either the government must undertake to make these barbarians respect the lives and property of the immense number of our citizens who annually traverse the plains or the latter will be compelled to assure the task, by punishing indiscriminately every Indian they meet.”<sup>61</sup> In other words, these nomadic Plains Indians must be physically subdued before there could be any sort of peace, as defined from an American perspective, could exist on the plains. If the government did not subdue them physically, then the American citizen would exercise his perceived right to do so. If the latter occurred, Winship implied that there would be much greater consequences for the United States and plains Indians alike—an all out race war with its inherent acts of unrestrained

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<sup>59</sup> IG Report, 114.

<sup>60</sup> IG Report, 116.

<sup>61</sup> IG Report, 116.



violence and inhumanity. Winship gave no mention to negotiation or any alternative means of resolving conflict or potential conflict between the United States and its citizens and those bands of Cheyenne and Sioux living in the plains that refused to comply with American political demands. In sum, peace with the various bands of Sioux, the Cheyenne, and other Plains Indians rested in the United States government's ability and willingness to subdue and conquer its foes. Winship concurred. He, like many Americans before him and many after, recommended the use of lethal force as the answer to the nation's need to protect its citizens and to establish peace on the plains.

Although Winship believed in the "final and total extinction of the Aboriginal races on this continent," he also made some rather interesting comments about the political nature of Indian society.<sup>62</sup> Regarding indigenous peoples political traditions, he could not understand why the United States government would recognize a "government" chief if a popular chief existed within a particular tribe. How could the government expect a handpicked chief to lead his people or have any significant influence if he was not the people's choice? The selection of an individual, such as "the Man that Walks Out" of the Cheyenne Platte Band to represent the whole of the Cheyenne people, made little political sense to Winship. "It may facilitate business transactions," Winship concluded, "but can scarcely add to the real influence of the Government within a tribe."<sup>63</sup> Perhaps that was the point; it was easier to conduct business transactions with a single individual rather than with a whole people.

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<sup>62</sup> IG Report, 122.

<sup>63</sup> IG Report, 120.

Regardless of the government's motive for doing so, the federal government always sought out or chose an individual to speak for his people, whether that person had any authority to do so or not.

This process made sense from a western political perspective, but was generally an anomaly to most indigenous peoples of the plains. "The governments of most of these Indian tribes is the purest kind of a democracy," Winship surmised, "for it is founded upon a correct personal knowledge and appreciation of the physical, mental, and moral worth of him whom it is proposed to promote, politically." Furthermore, "he who disappoints the Expectations of his Constituency, or [he who] is thrust upon them, without their consent, is as powerless as he deserves to be and occasionally is among more civilized nations."<sup>64</sup> Winship's powerful and insightful commentary on Indian politics was unusual for his time. Few would credit another culture, especially one that was perceived as lesser or backward, with purer democratic forms of government than the United States. Nonetheless, the United States government insisted on conducting negotiations for peace or business in the manner in which it, the more powerful participant, was accustomed.

Winship's final assessment of the threat posed by the Plains Indians to the United States estimated that there were some 10,000 warriors among the potentially hostile plains tribes within the Department of the West's area of responsibility. The several bands that constituted the Sioux Nation were the most powerful. Some 3,100

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<sup>64</sup> IG Report, 120.

of those Sioux warriors came from the Ogallalas, the Brule, and Minicoujous bands. The first two were heavily implicated in the Grattan Massacre of August 1854 in which some thirty odd soldiers were ambushed near Fort Laramie under the guise of an attempt to turn over a Sioux who was charged with taking an ox from a passing emigrant. Since Winship did not complete his report until late September 1854, he was aware of the incident and it undoubtedly reinforced his convictions that the only way to maintain peace with the Sioux or any other nomadic Plains Indian was through the use of force. Among the other major tribes that posed a significant military threat were the Comanches, Kiowas, Arapahoes, Cheyennes, and Pawnees.

Should all of these tribes have possessed the desire to unite into a single military force, they would have been extremely formidable. Fortunately for the army, the likelihood of all of these disparate tribes coming together under a unified command was highly unlikely if not impossible. Growing animosities between most of these tribes prevented any sort of unified front, even against a common enemy. Even getting the various bands of the same peoples together was extremely difficult given the geographic dispersion and political nature of most indigenous peoples. But even without complete unity, individual bands presented formidable military challenges. The army had 1,500 troops in the region in 1854 to accomplish all of the missions it was expected to perform. Winship suggested that 3,000 soldiers would be sufficient to meet the government's and the people's expectations. He could not foresee the circumstance when more than any two of these tribes might come together to fight against the United States. Given that assumption, he recommended that the

government station some 1,000 infantry and 2,000 mounted troops within the Department of the West's geographic area of responsibility. These troops should be concentrated. One post with ten companies was far more effective in Winship's mind than 10 posts with only one company.<sup>65</sup> A single company stood little chance against the combined efforts of the Ogalala and Brule. The Minicoujous could supply 1,200 warriors themselves.

The vast distances within the Department of the West's responsibility, however, precluded effective concentration of forces to any substantial degree. To protect the Oregon and California trails, the government maintained posts at dispersed locations along the routes to respond to potential threats. Having 2,000 troops at Fort Leavenworth did little good in responding to situations like the Grattan Massacre that occurred 600 miles away near Fort Laramie. There were too few troops at Fort Laramie to respond to the massacre, yet there were enough to secure the fortification and maintain a presence on the plains. The War Department deployed reinforcements from Fort Leavenworth and Fort Riley for Fort Laramie, but they arrived months after the attack. The campaign or expedition to punish those who had committed the crime did not commence until the following summer. And the engagement that culminated the campaign occurred over a year after the event.

Clearly the army faced a dilemma concerning how to deploy its limited number of regulars throughout the plains. Like most situations the army faced during the 1850s, there were always limited resources available to accomplish difficult missions.

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<sup>65</sup> IG Report, 128.

In the end, the Sioux were sufficiently chastised by Brigadier General William S. Harney and his expedition. But like campaigns before and punitive expeditions afterwards, it did not completely pacify the Sioux or any other tribe that sought to live outside the political and cultural reach of the American government. In time, the Plains Indians would lose much of their traditional homelands. They would be relocated on reservations or acculturated into American society. Each process achieved a modicum of peace. The reservation system equated to what Paul Seabury and Angelo Codevilla termed the “peace of the prison.”<sup>66</sup> Safely within reservation boundaries or something akin to a peace of the “minimum security prison,” indigenous peoples could be monitored and controlled. Their cultures would be contained and their threat to American society virtually eliminated.

Acculturation was another means to accomplish the same objective. By accepting white ways, white society, and white culture, those Indians that either chose to or were coerced into living in the dominant white culture would become theoretically less “Indian” and more “American.” The more “American” Indians became the less of a threat they would pose to the larger white society. This path to peace was essentially ethnocide. It took away, or at least tried to take away, an Indian’s culture. This acculturalization was seen as more humanitarian than the last alternative—genocide. If all else failed in the nation’s quest for peace with its indigenous peoples, genocide offered a final solution to the “Indian” problem. Many Americans in the nineteenth century believed that the indigenous peoples that lived in

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<sup>66</sup> Paul Seabury and Angelo Codevilla, *War; Ends and Means*, (New York: Basic Books, Inc., 1989), 265.

the United States were destined for extinction anyway. It was only a matter of time before the Sioux or Delaware simply ceased to exist as identifiable peoples. They would either kill themselves off or the army would eliminate those that resisted the United States. Those that adopted American culture would live, but they would live as Americans and not as Cheyenne or Pawnee. Fortunately, American Indian peoples and cultures survived the options presented to them in the nineteenth and early twentieth centuries. Instead of achieving a "peace of the dead," a "peace of the prison," or a "peace of cultural conquest," the United States and the over 500 indigenous peoples living in the country have come to accept what could be called peace of diversity, a realization that different is different. One culture is no better or no worse than the other.

In sum, the American people and their government expected the army to perform a myriad of missions and functions. Its first priority was to ensure the physical security of the nation. On the east coast, this mission amounted primarily to manning coastal fortifications, a necessary but mundane task. In the west, however, troops were expected to do much more. They were expected to protect vital lines of communications that linked east with the west and southwest. This protection mission extended to the emigrants who traveled along the various trails to the west coast. The army troops were also expected to defend settlers in the newly formed territories of the Kansas and Nebraska. The fortifications that housed the nation's soldiers also served as centers of economic security for local residents. Army troops provided escorts for mail contractors, government officials, and other important

government functions necessary to expand and strengthen the nation at large. The government and the people expected the army to respond to and eliminate hostile threats from indigenous peoples through peace enforcement operations. Friendly Indians in Kansas were to be protected in accordance with treaty obligations, but more often than not they were removed once again to new lands to the south.<sup>67</sup> In executing all of these disparate operations, the army was held to certain standards of conduct. The people expected the army in Kansas to be prepared to defend the nation's interests. They expected the soldiers that made up the army to perform their duty without political bias or favoritism. In other words, the army was expected to be apolitical and its officers and men were expected to behave accordingly.

The frontier or constabulary army generally met the government's and the peoples' expectations during the 1850s. In its peace enforcement operations against the Lakota in 1855 and in its peacekeeping operations in Kansas, the army revealed its capacity to engage in and successfully conduct operations other than war. Often undermanned and generally under resourced, the army, and more specifically the Department of the West, found itself challenged when it was expected to accomplish all of the traditional protection missions it was given while being asked to preserve the peace in Kansas and the trans-Missouri west. How well and in what manner the army met those challenges and expectations is the subject of chapters three through six.

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<sup>67</sup> For more on the removal process, see Miner and Unrau, *End of Indian Kansas*.

## Chapter 2

### **Political Means and Ends: Expansion and Slavery Collide in Kansas, 1854-1856**

Our political problem now is, 'Can we, as a nation, continue together *permanently—forever*—half slave, and half free?'<sup>1</sup>

—Abraham Lincoln

While the American people expected the army to fulfill certain military functions and missions without question, the government, or more specifically the political party in power, occasionally used the army as a means to achieve partisan political objectives. The use of the army to secure those objectives usually fell within normal expectations of providing physical or economic security. On occasion, however, a party in power use of the army challenged the acceptable limits of what most Americans of the time would consider as an appropriate use of military force. An examination of both stated and implied political objectives of the Pierce administration regarding “Bleeding Kansas” was one of those occasions. By identifying and understanding what objectives the Pierce administration hoped to accomplish through military means helps us to better understand the relationship of the government, the people, and the army during a critical domestic disturbance.

The most challenging aspect regarding the political objectives sought by the Pierce Administration during “Bleeding Kansas” is determining exactly what they were. Unlike today, American governments of the nineteenth century did not publish national security strategies that outlined fundamental beliefs and objectives of the United States. That does not mean that the governments of the nineteenth century did

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<sup>1</sup> Quoted in Bruce Levine, *Half Slave and Half Free: The Roots of the Civil War*, (New York: Hill and Wang, 1991), xii.



not pursue national security objectives, only that historians have to extrapolate them from key political documents of the era. The most fundamental objectives of the administrations that had to deal with the nation at large were usually expressed through key documents such as an incoming President's inaugural address. Changes to existing objectives or new objectives altogether were detailed in the President's annual state of the union address to Congress. More often than not, these documents provided the fundamental beliefs and basic objectives sought by each administration. As such, they provided some insight into exactly what Pierce and the Democratic Party sought to accomplish while they were in power. Party platforms were also illuminating. They too provided insight into what that a particular party stood for but also what it hoped to accomplish if elected. Unfortunately, neither addresses nor platforms identified all of the political objectives sought by a particular administration. Others had to be discerned from actions or non-actions committed by various political officials. These "unstated" objectives, which often supported the accomplishment of other stated objectives, were just as important as were those that were publicly identified. The historian's dilemma concerning "Bleeding Kansas" is determining what the Pierce administration's primary and supporting objectives were and how it sought to accomplish them.

Since this dissertation is concerned primarily with the role of the army as a domestic peacekeeping force during "Bleeding Kansas," it focuses only on those objectives and supporting objectives that had a direct impact on army operations in Kansas. This includes but is not limited to the army's peacekeeping and peace

enforcement operations and the expected conduct of army personnel in accomplishing those missions. Of course, the army not only had to contend with supporting national government and party objectives, but it had to do so while attempting to pacify competing factions within Kansas who pursued their own political objectives.

Because of the complexity of the political situation in Kansas, it is necessary to understand first the political objectives sought by the competing parties within the territories. The two most prominent political factions in Kansas were the free-state party and the pro-slavery contingent that later organized itself as the "law and order" party. Each faction followed its own political agenda. Each sought to posture itself politically and militarily in order to accomplish their aims. And their agendas may or may not have been congruent with their national level counterparts within the Democratic Party.

At the most basic level, these competing and seemingly irreconcilable objectives sparked the conflict in Kansas in the first place. On the one side, the free-state supporters' primary political, social, and economic objective was to make Kansas a free-soil, free-labor state.<sup>2</sup> The vision of the nation's future from a Northerner's perspective, according to Michael Morrison, entailed a frontier planted with white, free labor.<sup>3</sup> That objective could only be accomplished by keeping slavery out of the territory. Slavery, free-staters believed, retarded progress. The peculiar institution could not be allowed to extend beyond its present borders, which in context of Kansas meant the border of western Missouri. In short, most free-staters

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<sup>2</sup> St Louis *Republican*, 14 July 1854, 2. (From New York *Tribune*)

<sup>3</sup> Morrison, *Slavery and the American West*, 6.

wanted the institution of slavery contained. The extension of slavery onto the uncontaminated soil of the Kansas territory threatened their vision of the nation's future. Free labor, in other words, required free soil.<sup>4</sup> Not only did most free-state proponents desire a territory and ultimately a state that prevented slavery from polluting the free-soil of Kansas, they also wanted a state that also kept free African-Americans out as well.<sup>5</sup> The desired end state, or ultimate objective sought by free-state advocates, was a Kansas controlled by white men who believed in the principles of free labor. These men would serve as an example of the virtues of free labor while containing the institution of slavery within the existing slave states, especially Missouri.

Not all free-staters or free soilers, however, shared the exact same vision. The internal divisions within the free-state movement complicated their efforts at times, but it also helped contain extremist elements within the party.<sup>6</sup> While all wanted Kansas to enter the Union as a free state, some wanted to do more than just contain slavery. Those individuals wanted to eradicate the evil institution altogether.<sup>7</sup> These abolitionists represented the extreme, or, in from the pro-slavery perspective, the fanatical elements of the free-state movement.<sup>8</sup> Their existence and their radical

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<sup>4</sup> Morrison, *Slavery and the American West*, 110.

<sup>5</sup> See Allan Nevins, *Ordeal of the Union*, 383 and 394. See also Richard White, *"It's Your Misfortune and None of My Own": A New History of the American West* (Norman: University of Oklahoma Press, 1991), 158-159. For more on the Wyandotte Constitution see, Senate Miscellaneous Document 16, 36<sup>th</sup> cong., 1<sup>st</sup> sess., Serial 1038 or House Miscellaneous Document 6, 36<sup>th</sup> Cong., 1<sup>st</sup> sess., Serial 1060.

<sup>6</sup> Potter, *The Impending Crisis*, 205.

<sup>7</sup> See "By Telegraph," New York, 9 May 1855 in St Louis *Republican*, 10 May 1854, 2 for an example of resolutions espoused by prominent abolitionists aimed at eliminating slavery in the United States.

<sup>8</sup> See Alice Nichols, *Bleeding Kansas*, 212 for a description of the varieties of free state men. She classifies them in two camps—conservative and ultra. She further divides the conservative free state

objectives complicated free-state political activities in Kansas and on occasion disrupted the free state movement. Pro-slavery advocates as well as those who were politically neutral criticized Abolitionists for their extreme position. While they desired an American society free from the evils of slavery, their radical solutions were unacceptable to most Americans whether they were slave owners or not. To complicate matters even more, most pro-slavery supporters tended to label all free-staters and all who supported or joined the fledgling Republican Party as abolitionists.<sup>9</sup> The taint of radicalism associated with abolitionism only exacerbated tense emotions between free-staters and pro-slavery factions in Kansas.

Pro-slavery supporters, on the other hand, had a different end state in mind. To them and their leaders, like David Rice Atchison of Missouri, slavery was not just a quaint or peculiar economic institution. Slavery was a way of life, a means of social order, and a tool of racial control.<sup>10</sup> But perhaps most importantly for pro-slavery supporters, slaves were personal property. As such, a free Kansas posed a dilemma. On the one hand, there was the real threat of a slave sanctuary. "To slaveowners in Mo., having Kansas free" one local observer commented, "was like having Canada next door."<sup>11</sup> On the other hand, Congress, in their minds, could not

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supporter into two types as well—the New England Emigrant Aid Company type and the western-state type. Charles Robinson represented the NEEAC or moral-oriented free stater. Samuel Walker was an example of the western-state type. The ultras were represented by the like of John Brown, James Redpath and James Lane and James Montgomery, the notorious jayhawker.

<sup>9</sup> Morrison, *Slavery and the American West*, 211.

<sup>10</sup> For more on the issue of race, see James Rawley, *Race and Politics*.

<sup>11</sup> A.W. Reese, "Eyewitness to the Border Ruffian invasion in 1855-56," in A.W. Reese Manuscript Collection, KSHS, Box 1, 36. See also, G. Douglas Brewerton, *The War in Kansas* (Freeport, NY: Books for Libraries Press, 1971), 165. Brewerton observed that there were 50,000 slaves in proximity to Kansas. At a conservative estimate of \$600.00 per slave, that equated to \$30,000,000 worth of property threatened by a free Kansas.

prevent American citizens from taking their property with them. If a slave owner wanted to take slaves to the new territories, there was no reason why he could not do so.<sup>12</sup> The Constitution protected slavery. And no one could deny a slave owner his constitutional rights unless those rights were denied by the consent of the governed. Under the aegis of popular sovereignty, many slaveholders believed that they had as much right to bring their property to the territory of Kansas and establish a home, as did the non-slaveholder, the free-soiler, or the abolitionist.<sup>13</sup> In sum, the pro-slavery faction that emerged in and around Kansas saw the territory as a test of their constitutional rights as American citizens to protect their property and take their property wherever they desired. In their envisioned future, Kansas would enter the Union as a slave state. Not so much as to actually populate the territory with African-Americans, as much as to sustain their conviction that the Constitution protected slavery, that slaves were property, and that slave owners, as American citizens, had as much right to take their property to Kansas, or any other place in the United States, as any other citizen.<sup>14</sup>

These competing visions contributed greatly to the violence that erupted in the territory between the winter of 1855 until the fall of 1856. The free-state vision was completely incompatible with that of the pro-slavery faction. Although the nation

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<sup>12</sup> For Davis's perspective see, John Muldowny, "The Administration of Jefferson Davis as Secretary of War," Ph.D. diss., Yale University, 1959, 22-23. Muldowny cites Davis's belief while serving as a Senator from Mississippi that slave owners had the right "to take their property into any landed possession of the Union."

<sup>13</sup> For more on the southern perspective, see Morrison, *Slavery and the American West*, 112-118.

<sup>14</sup> For an example, see Fehrenbacher, *The Slaveholding Republic*, 85. Jefferson Davis, as Senator from Mississippi had argued against the admission of California as a free state because "Congress had no power to change the condition of slavery, or to strip the master of his rights in his property. Entering a Territory with this property, the citizen has a right to its protection." See *Congressional Globe*, 30<sup>th</sup> Cong., 1<sup>st</sup> sess., 927.

itself was both slave and free, Kansas, given the commitment of both parties to their desired objectives, could not be both.

Slavery and its legal status in Kansas, however, was not the only area of disagreement between the two political factions. There were contests over who should control the territorial legislature, who could lay claim to what property, and who owned the various natural resources in Kansas. Even without the political debate over slavery, the settlement of Kansas presented ample reasons and opportunities for violence and discord. As historians like James Malin, Paul Wallace Gates, Gunja SenGupta have concluded, the disagreements and debates over slavery were basically the ideological fig leaf covering the real or root cause of the violence in Kansas—economic competition.<sup>15</sup> Whether the settlers that found their way into Kansas were free-state, abolitionist, pro-slave, or neutral, most white emigrants that went to their to establish a new life for themselves and their families did so to promote their own economic self-interest.<sup>16</sup> The opportunity for relatively inexpensive land, according to Malin and others, was a greater motive for immigrating to Kansas than defending slavery and the rights of slave owners or advocating the principles of free soil or abolitionism.<sup>17</sup>

Undoubtedly, there were many white settlers, or perhaps it would be best to call them re-settlers since there were emigrant Indians already living in what would become Kansas, who went to the territory to make a better life for themselves.

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<sup>15</sup> Malin, *John Brown and the Legend of Fifty-Six*; Paul Wallace Gates, *Fifty Million Acres*; and SenGupta, *For God and Mammon*.

<sup>16</sup> Potter, *The Impending Crisis*, 202. See also William J. Cooper, *Liberty and Slavery*, (Columbia: University of South Carolina Press, 2000), 258.

<sup>17</sup> Nevins, *Ordeal of the Union*, 314.

Kansas, in this respect, was no different than other territories that had been created as part of the nation's and the Democratic Party's commitment to westward expansion. Like other territories, newly arrived emigrants competed over land. Under the liberal pre-emption guidelines of the Preemption Law of 1841 and the Act of July 1854 which added even more confusion and ambiguity to the question of land ownership in Kansas, free-staters, abolitionists, pro-slavery supporters and those who could care less about slavery flowed into the newly opened territory in the summer of 1854.<sup>18</sup> As in other instances, there were arguments over who had claimed what property. Some land disputes were resolved through legal means, others through violence.

Unfortunately for those who settled in Kansas, there was no effective law enforcement infrastructure in existence that would allow peaceful resolution of conflicting claims. The territory's first governor, Andrew Reeder of Pennsylvania, would not even arrive in the territory until October 1854; almost four months after President Pierce appointed him to the position. Without a governor present to begin the process of establishing a territorial government, the territory floundered in a state of virtual lawlessness. The governor could not execute the laws of the territory until it actually had laws. The mechanism for making laws for Kansas and all other territories was the territorial legislature. Unlike its neighboring territory to the north, Kansas would not have a legislative body that could create and enact laws until July 1855. Until then, the Organic Law of the Territory (Kansas-Nebraska Act) governed the territory. Unfortunately, there was little authority in place to enforce the law.

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<sup>18</sup> Miner and Unrau, *End of Indian Kansas*, 14.

The President appointed a United States Marshal for such purposes, but he was only one man. Until a legislature could approve or appoint sheriffs and justices of the peace, Kansans had no one to turn too for protection or to resolve conflicts short of themselves or the nearest United States Army installation.

The absence of territorial laws and the lack of law enforcement officials exacerbated the usual lawlessness associated with the creation of a new territory. In their desire to create and maintain a semblance of political, social, and economic order, many of the newcomers to Kansas formed protective associations primarily to defend their land claims and ostensibly to protect their economic and civil rights.<sup>19</sup> These extra-legal organizations were not unique to Kansas. Claim and town site associations were a fairly common means of creating order out of chaotic situations. In Kansas these associations filled many of the voids created by the lack of a functioning territorial legislature. Associations, like the Salt Creek Valley organization, established guidelines for resolving disputes over competing claims within their charters.<sup>20</sup> They often provided the means of protection for its members from physical threats of outsiders by creating vigilance committees.<sup>21</sup> And some Kansas squatter organizations often proclaimed their political goals and objectives in their charters. The Salt Creek Valley Association, like many of its pro-slavery

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<sup>19</sup> See J. Patrick Hughes, *Fort Leavenworth: Gateway to the West* (Topeka: Kansas State Historical Society, 2000), 47-49.

<sup>20</sup> "Meeting of Squatters," *St Louis Republican*, 19 June 1854, 2 and "Affairs at Fort Leavenworth," *Montgomery Advertiser*, 5 July 1854, 2. See also "Public Meeting at Leavenworth," *St Louis Republican*, 15 October 1854, 2 and "Squatter Meeting," *St Louis Republican*, 21 October 1854, 2.

<sup>21</sup> *St Louis Republican*, 1 July 1854, 2.



counterparts, stated its commitment to making Kansas a slave state in its charter.<sup>22</sup>

The association intended to achieve its objectives peacefully, but its members were more than willing to use coercive or violent means if necessary.

Other communities formed what were known as self-defensive associations. These groups, however, were not restricted to the confines of territorial Kansas. There were several associations, such as the Platte County Self-Defensive Association, that were formed in neighboring Missouri with the express purpose of ensuring Kansas became a slave state.<sup>23</sup> With some 50,000 slaves in eighteen counties on or near the Kansas-Missouri border, many Missourians worried about the prospect of a free Kansas.<sup>24</sup> Some believed their slave property would become valueless if the “hired fanatics recruited, transported, armed and paid” for by the likes of the New England Emigrant Aid Company populated the neighboring territory. Their sole aim—pro-slavery supporters believed—was the “abolitionizing [of] Kansas and Missouri.”<sup>25</sup>

Given this perceived threat posed by free-state emigrants, pro-slavery Missourians looked for protection of their property and their rights through local defense associations. The Self-Defensive Association of Platte County was but one of many of these types of organizations. Their existence may have calmed some

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<sup>22</sup> For other examples, see Muldowny, “Administration of Jefferson Davis,” 176.

<sup>23</sup> W.M. Paxton, *Annals of Platte County Missouri* (Kansas City: Hudson-Kimberly Pub, 1897), 184. The Platte County Self-Defensives were formed on 29 July 1854. See also House Report 200, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., serial 869, 2-3.

<sup>24</sup> William Paxton estimated that there were 2,935 slaves in Platte County in 1855 with an assessed value of \$1,264,860.00. See Paxton, *Annals of Platte County Missouri*, 201.

<sup>25</sup> Merkel, “Anit-slavery,” 20. See also Lloyd Lewis, “Propaganda and the Kansas-Missouri War,” *Missouri Historical Review* 34 no.1, (October 1939), 7 and Larry Gara, *The Presidency of Franklin Pierce* (Lawrence: University Press of Kansas, 1991), 111.

local fears, but ultimately they further complicated the ability for anyone or any organization to maintain law and order in Kansas.<sup>26</sup> As pro-slavery and free-staters formed more of these organizations, the more volatile the territory became. Organized almost exclusively to ensure that Kansas either became a slave state or a free state, some of these groups eventually looked more like military organizations than a group of locals with common defense interests. From the pro-slavery oriented Kickapoo Rangers to the free state militia companies such as the Prairie City Rifles and the Pottawotomie Guards, eastern Kansas became a virtual tinderbox waiting to be lit by the flames of sectional discord over the slavery extension question.<sup>27</sup>

Under these difficult and trying circumstances the Pierce Administration sought to achieve its own stated and unstated political objectives in Kansas. Some were congruent with what pro-slavery supporters hoped to accomplish. Others reflected Pierce's and the Democrat party's commitment to uphold their understanding of the Constitution and to enforce federal laws as necessary. Of all the national-level or strategic objectives sought by Pierce and the Democrats, none was as important as the preservation of the Union. Granted this objective was also an expectation, but from Pierce's personal perspective nothing was dearer to his being than the preservation of the Union. "I am moved," Pierce told congress, by no other impulse than a most earnest desire for the perpetuation of that Union which has made

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<sup>26</sup> Frederick Starr to father, 18 October 1854, Starr Papers, Western Historical Manuscript Collection, University of Missouri, Columbia, Missouri. See also Benjamin Merkel, "The Antislavery Controversy in Missouri, 1819-1865," PhD diss, Washington University-St Louis, 1939, 18. See also Potter, *The Impending Crisis*, 200.

<sup>27</sup> For an example of the Kickapoo Ranger's activity see, *Kansas Pioneer*, Extra, 18 January 1856, Kansas State Historical Society. For more on the free state militias see, G. Murlin Welch, "Border Warfare in Southeastern Kansas, 1856-1859," Master's Thesis, University of Kansas, 1938, 1.

us what we are.”<sup>28</sup> Pierce sought not only to preserve the Union, but also to strengthen and enlarge it. One way to make the nation stronger, Pierce believed, was through expansion. He and the Democratic Party had no qualms about enlarging the Union through the addition of new states.<sup>29</sup>

To achieve a stronger Union, Pierce believed that the Democratic Party offered the best hope for the future of the United States.<sup>30</sup> In order to keep the Democrats in power, they had to maintain control of the government. Control meant winning elections. As long as the Democrats remained unified, they could reasonably expect to win elections for the foreseeable future. Democratic unity, however, was not easy to maintain. The Southern arm of the party in particular required constant assurances that the South’s peculiar institution and its rights would be protected. To keep the South within the fold, Democratic presidential hopefuls had to placate the party’s slave-owning constituency if they had any hope of acquiring the party’s nomination. Failure to do so would also weaken the party to the degree that it could lose control of the federal government. Pierce’s own political career, of course, depended on his adherence to pro-southern policies.

After the national election of 1852, there was no one significant threat to Democratic hegemony. The Whig party, the nemesis of the Democrats since the 1830s, was in its death throes. The other significant party—the Know-Nothings—

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<sup>28</sup> “Pierce Inaugural,” 4 March 1853 in James D. Richardson, *A Compilation of the Messages and Papers of the Presidents, 1789-1897*, Vol. V., (Washington: Government Printing Office, 1897), 201-202.

<sup>29</sup> “Pierce Inaugural” in Richardson, *Messages and Papers*, 198.

<sup>30</sup> See Monaghan, *Civil War on the Western Border*, 46-47.

was to be short-lived.<sup>31</sup> By 1856, the most potentially dangerous of the new parties, the upstart Republicans, lacked the national appeal of a unified Democratic Party. As long as the Democrats maintained the political status quo, they could expect to maintain control of the federal government. The status quo, however, changed following the passage of the Kansas-Nebraska Act. With the act's repeal of the Missouri Compromise and the reopening of the slavery extension question, the Republicans had a cause celebre that threatened to end Democratic control of the government.<sup>32</sup> The violence that erupted between free state supporters and pro-slavery advocates in Kansas following the Wakarusa War of December 1855, made it even more difficult for the Democrats to retain their political dominance. They had already lost control of the House of Representatives to the Republicans in 1854.<sup>33</sup> The intense battle over the speakership of the House in early 1856 coupled with news of increasing tensions in Kansas in late 1855 were ominous signs of defeat for the Democrats unless they could right their political ship before the 1856 national elections.<sup>34</sup>

Leading Democrats reasoned that if they wanted to maintain control of the government, they had to resolve the politically sensitive Kansas situation without alienating the South or losing more northern voters by further dividing the party over the slavery extension issue. To accomplish their ultimate objective of preserving the

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<sup>31</sup> For more on the political issues of the 1850s see, Holt, *Political Crises of the 1850s* and Michael F. Holt, *The Rise and Fall of the American Whig Party* (New York: Oxford University Press, 1999).

<sup>32</sup> Don E. Fehrenbacher, *The Slaveholding Republic: An Account of the United States Government's Relations to Slavery*, (New York: Oxford University Press, 2001), 279

<sup>33</sup> White, "It's Your Misfortune," 160. White stated that the Democrats lost 66 of their 91 northern congressmen as a result of the Kansas-Nebraska Act.

<sup>34</sup> Nevins, *Ordeal of the Union*, 398.

Union by maintaining Democratic control of the general government, Pierce and his administration had to maintain peace and order in Kansas.<sup>35</sup> If they did not, the Republicans could ride the issue all the way to the White House during the 1856 national elections. Equally important was the need to keep the party intact. A fractured Democratic Party could be as costly as a unified Republican party.

By June 1856, Kansas had already cost Pierce his party's re-nomination. Senator Stephen A. Douglas of Illinois had also suffered politically from his sponsorship of the Kansas-Nebraska Act. The Democrats finally settled on James Buchanan—the American minister to the Court of St James—as their nominee largely because of his disassociation with the Kansas imbroglio. Although denied re-nomination, Pierce still believed that the Democratic Party offered the best hope for the future of the country. To aid the party and its presidential ticket, he continued to use his power and influence as President to preserve the Union and keep the Democratic Party in power by pacifying Kansas before the 1856 election. Unable to quell the violence in Kansas through civil processes, Pierce ultimately relied on the physical presence and power of the United States Army to achieve a modicum of peace in the turbulent territory. As one Lawrence resident prophesied in October 1855, “for Pierce to refrain from forcing us in to submission, would be failing to obey his Southern masters & I think he would be so mad as to hope of promoting his interests by sending an army to enforce the laws of Uncle Sam’s creature the

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<sup>35</sup> Muldowny, “Administration of Jefferson Davis,” 341. According to Muldowny, “In regard to Kansas Davis had one main objective, the preservation and maintenance of law and order.”

territorial government.”<sup>36</sup> His use of the army was not the only tool employed to achieve his objectives, but it was certainly the most visible, the most potent, and—in the end—the most effective.

The use of the army, however, was also one of the most risky means Pierce could have used to pacify Kansas. If the army failed in its peace mission or if matters escalated beyond the control of the army, Pierce risked plunging the nation into civil war. Neither Pierce nor the Democrats wanted a wider civil war. To prevent a wider conflict, the violence had to be first contained to Kansas and then eliminated altogether. The overarching objective was to strengthen and preserve the Union, not to weaken the country by increasing sectional animosities. In sum, the fundamental political issue in Kansas centered on whether or not slavery could be allowed to exist in the territory. It was a political question that required political solutions. The Democrats had long preached popular sovereignty as the solution to the problem.<sup>37</sup> Unfortunately, popular sovereignty failed to achieve the desired results. Theoretically sound in concept, popular sovereignty was never executed in a manner conducive to a non-violent resolution to the slavery extension issue. With no other workable or mutually agreeable political solution available in 1856, Pierce turned to the military to resolve the political crisis in Kansas.

President Pierce, Secretary of War Davis, and Secretary of State Marcy expected the army to meet the exigency of the day and keep the belligerent factions in

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<sup>36</sup> Charles Stearns to Charles Sumner, 2 October 1855 in E. L. Pierce Collection, KSHS.

<sup>37</sup> See Speech of Frederick P. Stanton, 8 February 1858, Philadelphia, Pennsylvania, Robert J. Walker Papers, Manuscript Division, Library of Congress, 2. Stanton stated that the “whole Democratic party were pledged [to] the doctrine of popular sovereignty.”

the territory pacified until the matter could be resolved. Under popular sovereignty the preferred method of resolution was via the ballot box. When violence and animosity between the competing factions rendered the ballot box ineffective, the government called upon the army to serve as peacekeepers. The army's ability to keep the peace, maintain order, provide security, and legitimize the territorial government would be critical to the Democrats hopes in 1856.

### **Peace as an Objective**

Peace in Kansas was not only an end in and of itself; it was also a means to a more immediate political end—the possession of political power. Without some semblance of peace in Kansas, the Democrats could lose the national election and control of the federal government. A Republican victory in 1856 had the potential to rupture the bonds of Union that the Democrats believed only they could preserve. It was imperative for Pierce to seek and achieve peace in Kansas if the nation was to remain intact. Pierce's fundamental dilemma was how to establish peace in Kansas after pro-slavery elements and free-state supporters resorted to violence to achieve their respective political objectives for the territory. If peace was not only a desired end but also a legitimate and time-sensitive political objective, how could it or how should it be achieved? Before assessing the means of achieving peace, the term itself must be defined. How was peace defined in an American context? Was peace in Kansas a legitimate and observable goal, or was peace itself simply a means to other, less righteous objectives? In other words, could peace, however defined, be both an end and the means to other ends.

The concept of peace is not easily defined. At the individual level peace might be harmony with one's family or friends, a kind of personal satisfaction with one's life. Peace of mind might mean freedom from worry or regret. Individual peace, however, does not necessarily equate to a peaceful community. What then is or was peace in context of a group of individuals and in context of communities whether they are towns, states, or nations? From a western, Judeo-Christian perspective, St Augustine provided an excellent definition. "The peace of the political community," according to Augustine, "is an ordered harmony of authority and obedience between citizens . . . Peace in its final sense is the calm that comes of order."<sup>38</sup> St Augustine's definition was quite appropriate in understanding what elements constitute a western notion of peace, or at least peace within a political community. His emphasis on "ordered harmony of authority," on "obedience," and the need for order as prerequisites for peace was insightful. When all of these ingredients exist simultaneously, there is peace. But was it humanly possible for all of these essential elements of peace to exist? Augustine said no. "Perfect peace, the only perfect tranquility that comes from perfect order, exists only in the city of God."<sup>39</sup> Without perfect order there could be no perfect peace here on earth. The challenge then for defining peace is accounting for the imperfections of humanity

In a theoretical sense, Augustine's notion of absolute or perfect peace is somewhat akin to Carl von Clausewitz's concept of absolute war. In the first place, they both existed only at the theoretical level. Absolute or theoretical war could only

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<sup>38</sup> Seabury and Codevilla, *War: Ends and Means*, 270. St Augustine, *City of God*, 456.

<sup>39</sup> Seabury and Codevilla, *War: Ends and Means*, 270.



occur when there were no restraints or constraints placed on warfare as a human activity.<sup>40</sup> But as long as war was a social phenomenon conducted by humans, there would never be such a thing as absolute or perfect war. The same logic held true for absolute peace. As long as peace was a social construct with humans involved in its creation, there could never be a perfect peace. The reality and spectrum of human emotions such as hatred, fear, anger, greed, and jealousy inhibited any society's effort to achieve and sustain a peace of the political community as defined by St Augustine. So if perfect peace could not or cannot be obtained, can real or actual peace exist in its place?

The answer depends on how "real" peace is defined and by whom. Peace, according to some, is simply the absence of war.<sup>41</sup> Under this definition, peace is a negative concept. It exists only when something—war—is missing. If a society is not at war, then it must be at peace. While this is a logical conclusion, it demands an understanding of war to fully describe what constitutes peace. Two of the most basic characteristics or components of war are violence and conflict. Societies, for the most part, resort to violence when internal or external conflicts cannot be resolved by other means. War then can be defined as a state of social conflict resolved by violent means. This definition stresses two key elements—conflict and violence. If conflict is accepted as a constant in human society, then the critical difference between peace and war is how societies choose to resolve conflict. If a society opts for violent

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<sup>40</sup> Carl Von Clausewitz, *On War*, trans. and ed. Michael Howard and Peter Paret, rev. ed. (Princeton: Princeton University Press, 1984). See chapter 1 for a discussion of absolute and real war.

<sup>41</sup> Robin J. Crews, "Peace," in *American Military History*, 530.

means, that society is at war. If it chooses non-violent means, such as negotiation or economic coercion, then that society, although in conflict with another, is at peace. Either way, social conflict is a constant variable in both war and peace. The resolution of conflict through the use or non-use of violence is the key element that differentiates peace from war. Given these parameters, peace can be defined as a state of social conflict resolved by non-violent means.

For Franklin Pierce and the Democratic Party, peace was certainly an objective worth seeking. The President and his party actively sought peace in the international arena. He wanted to resolve conflicts with Spain and Great Britain through non-violent means although he was prepared to use force if necessary.<sup>42</sup> From a domestic standpoint, however, he undoubtedly preferred a nation that resolved its social and political conflicts non-violently. The most divisive issue that faced the nation and the one that could most likely lead to violence during his administration was the question of slavery's extension. Many, including Franklin Pierce, believed, or at least they wanted to believe, that the Compromise of 1850 had resolved the slavery issue forever.<sup>43</sup> But Pierce and the Democrats, despite their optimistic beliefs, had rekindled the issue when the slavery extension debate became entangled with another critical objective of the Pierce administration—expanding the number of states within the Union. Between the western border of Missouri and the eastern border of California lay millions of acres of unorganized lands acquired either

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<sup>42</sup> For Pierce's general approach to the use of force and foreign policy, see "Second Annual Message," 4 December 1854, in Richardson, *Messages and Papers*, 292-293.

<sup>43</sup> Muldowny, "Administration of Jefferson Davis," 4, 8, 161 and 175.

from the Louisiana Purchase or from the Mexican cession. The time had come, many thought, to organize parts of that vast region into territories preparatory to eventual statehood. Several reasons were offered for the need to bring Kansas and Nebraska into the Union, but the most noted has been the desire for a transcontinental railroad that would link the east coast with west.<sup>44</sup>

Two “problems,” however, hindered the organization of these new territories proposed by Senator Stephen Douglas of Illinois: Indians and Slaves. The first problem could be resolved by negotiating new treaties with the emigrant Indian peoples that inhabited lands in what would become Kansas and Nebraska. Although the region west of the Missouri River had been given to the Indians as a permanent Indian frontier, the Pierce Administration’s determination to expand subsumed promises to Native Americans. For their own good, the United States government negotiated new treaties with the Delaware, Wyandot, and other emigrant Indians along the western border of Missouri. With so few Indians and so much land, it was only right that they should cede excess lands to the government. Those lands in turn would be sold to American settlers who would put the lands to better and more productive use. In return, the Indians in Kansas would receive diminished reserves or they would be given the opportunity to become American citizens themselves.

The treaty process worked well in eliminating or reducing the Indian presence in eastern Kansas, but it did nothing to resolve the slavery extension debate.

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<sup>44</sup> Muldowny, “Administration of Jefferson Davis,” 156. Muldowny offered other possible motives: Douglas’s personal pledge to aid Senator Davis R. Atchison, an attempt to “inject new life into the inert administration,” Douglas’s desire to lead the Democratic Party and his aspiration for the presidency.

Significant political questions abounded regarding the issue. Should slavery be allowed or prohibited in the territories? What about the Missouri Compromise of 1820 provision that prohibited slavery above 36 30? Who had the authority to decide the issue? And when would the issue be decided? The proposed solution to the slavery extension debate was written into the Kansas-Nebraska Act.

That the Constitution, and all laws of the United States which are not locally inapplicable, shall have the same force and effect within the said territory of Kansas, except the eighth section of the act preparatory to the admission of Missouri in to the Union, approved March sixth, eighteen hundred and twenty, which, being consistent with the principle of non-intervention by Congress with slavery in the States and Territories, as recognized by the legislation of eighteen hundred and fifty, commonly called the compromise measures, is hereby declared inoperative and void; it being the true intent and meaning of the act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States.<sup>45</sup>

With Franklin Pierce's signature, Kansas became a territory on 30 May 1854.

The federal government possessed the means to resolve the Indian issue. But the question of slavery's extension would be left up to the Kansans themselves, whoever they might be. Under the doctrine of popular sovereignty, which had been long advocated by staunch Democratic leaders such as Lewis Cass and Stephen Douglass, the sovereign people of Kansas would decide on their own local institutions.

Unfortunately slavery extension was not a local issue. "By giving to settlers in Kansas the power to decide the question of slavery," Sydney Fisher observed, "the Territory has been thrown open to excited parties as an arena for conflict. As the

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<sup>45</sup> "Kansas Bill," An Act to Organize the Territory of Kansas, 30 May 1854, General Records of the Department of State, *Territorial Papers: Kansas 1854-61*, RG-59, M218, Reel 1.

question to be settled was national, and affected the interests and hopes of North and South,” Fisher concluded, “it was idle to expect that it would be treated as local, that those parties would not in some way participate in its decision.”<sup>46</sup> Ostensibly, neither Congress nor the President would interfere with the decision once the people decided to accept or reject slavery. Unfortunately, the framers of the Kansas act failed to clarify when exactly the sovereign people would make their decision regarding slavery. Could Kansans decide while they were still a territory or did they have to wait until Kansas was admitted as a state? If they had to wait until statehood, could slavery be legally kept out of the territory?

The responses from settlers that immigrated to Kansas varied according to their own personal political views. Pro-slavery supporters argued that since the Constitution protected slavery, the institution could not be kept out of Kansas. Congress, in other words, had no legal right to interfere with a territory’s or a state’s local institutions. Slavery existed in the territory until it was forbidden by the Constitution under which the territory became a state. Free-staters, on the other hand, believed that popular sovereignty doctrine allowed the people to decide the status of slavery before statehood. If the popularly elected territorial legislature chose to forbid the peculiar institution, then let the voice of the sovereign people of the territory be heard.<sup>47</sup> Abolitionists, however, argued vehemently that Congress possessed the legal authority to legislate slavery out of the territories if it so chose.

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<sup>46</sup> “Cecil,” (Sydney G. Fisher) “Kansas and the Constitution,” (Boston: Damrell and Moore, 1856) in *Kansas Collected Speeches and Pamphlets*, Vol. 8, 1855–1857, KSHS, 6-7.

<sup>47</sup> Muldowny, “Administration of Jefferson Davis,” 175.

Not only did Congress have that authority, Abolitionists believed Congress had the moral responsibility to do so. Given these divergent views on slavery extension, the problem was not easily resolved.<sup>48</sup> The litmus test of popular sovereignty would come with the first elections for congressional delegate and more importantly with the subsequent territorial legislature election. Those elections, however, could not take place until the governor arrived in Kansas and commenced the process of organizing the territory's government.

One of the ironies associated with popular sovereignty in operation was the fact that all of the territory's governmental officials, except the territorial legislature and the territorial delegate to Congress, were appointed by the President and confirmed by Congress. As such these officials, the governor, the territorial secretary, the district attorney, the United States Marshal, and the chief and associate justices of the territorial court, served at the pleasure of the President.<sup>49</sup> They had no electorate to placate. Their actions were not subject to the judgment of the people at the ballot box as were their counterparts in the states of the Union. This circumstance was not unique to Kansas. All new territories experienced a similar process. Since there were initially no "Kansans," short of the Native Americans who lived in the territory when it was created, to elect territorial officials after the territory came into being, and given the need to have some form of government in place to organize the territory, there was no other alternative. A new territory had to have a

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<sup>48</sup> Foner, *Free Soil*, 312. Eric Foner, like Michael Morrison, argued that "the struggle for the West represented a contest between two expansive societies, only one of whose aspirations could prevail." Interestingly, Foner ignored the role of American Indians in the expansion debate.

<sup>49</sup> "Officers of the New Territories," *Montgomery Advertiser*, 5 July 1854, 1. Alabama was the only state to support Pierce's re-nomination at the Cincinnati convention in June.

functioning government to guide it towards eventual statehood. These appointed officials did, however, have to answer to the President and his cabinet who were subject to the American electorate at large for their actions regarding Kansas.

The composition of the executive and judicial positions reflected an attempt by the Pierce administration to balance the territorial administrations with relatively equal numbers of pro-slavery and free-state supporters. The *Montgomery Advertiser*—a staunchly pro-slavery newspaper—seemed pleased with Pierce's selections. According to its state of origin analysis, the newspaper reported that Kansas had four officials from slave states and two from free states. Reeder from Pennsylvania and Marshal I.B. Donalson from Illinois represented the free states. All three of the judges and the territorial secretary were from southern slaveholding states.<sup>50</sup> With this composition, and with "the co-operation of the people of the border counties of Arkansas and Missouri, if Kansas does not become a slave territory we shall be greatly mistaken."<sup>51</sup>

The composition of the appointed Kansas government warranted comment and concern from the New York *Tribune*. "With Reeder [an avowed supporter of the "iniquity" known as the Kansas-Nebraska Act] is associated as Secretary, a Virginian (Woodson) who will of course do his utmost to sustain Senator Atchison's Missouri frontier disciples in their avowed determination to establish slavery in Kansas forthwith by virtue of their Bowie-knives and revolvers." To counter Pierce's pro-

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<sup>50</sup> See Nevins, *Ordeal of the Union*, 312. He states that Woodson was from Arkansas when he was actually a resident of Virginia. Either way, Woodson was a pro-slavery advocate and used his position as territorial secretary to further pro-slavery objectives.

<sup>51</sup> "Officers of the New Territories," *Montgomery Advertiser*, 5 July 1854, 1.

slavery selections, Horace Greeley, the *Tribune*'s editor, encouraged all those with "strong arms and brave hearts of the freemen" who believed in "freedom and equal rights in that Territory" to make their homes within Kansas's borders as soon as they are opened to white settlement.<sup>52</sup> If nothing else, these opening pro-slavery and free-state salvos regarding the composition and orientation of Kansas's civil leadership characterized a situation in which popular sovereignty, the preferred means of resolving the slavery extension question, was virtually doomed before it had a chance to function.

The first territorial election, and the first real test of the popular sovereignty doctrine, occurred in November 1854 shortly after Governor Reeder's arrival in the territory.<sup>53</sup> Although Pierce nominated Reeder in June and Congress confirmed him in July, he did not make his way to Kansas until October. Many questioned his tardy arrival and speculated over its meaning. Did he intend to delay an election long enough to allow enough free-state settlers to immigrate to the territory to support an abolitionist for Congress? Or did he simply not care about executing his duties as governor? Either way, pro-slavery advocates chastised him for his lack of speed in organizing the territory. After all, these concerned citizens of Missouri had observed, Nebraska had already elected a legislature and was well on its way to functioning as a legitimate territory.<sup>54</sup>

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<sup>52</sup> "Greeley on the New Appointees," *Montgomery Advertiser*, 5 July 1854, 1.

<sup>53</sup> For a complete description of the first territorial delegate election, see Allan Nevins, *Ordeal of the Union, A House Dividing, 1852-1857*, Vol II, (New York: Charles Scribner's Sons, 1947), 312-314.

<sup>54</sup> "Gov. Reeder of Kansas," *St Louis Republican*, 29 November 1854, 2.



Kansas, on the other hand, lagged behind. The election of a territorial delegate to Congress in November was welcomed, but it was not soon enough for some. Moreover, Reeder did not call for an election of a territorial legislature in 1854 at all. He would not hold that election until 30 March 1855; ten months after Pierce had signed the Kansas-Nebraska Act and at the end of the winter season when it was inconvenient or impractical for settlers to immigrate to Kansas and establish permanent homes in the territory. To pro-slavery advocates, Reeder's actions reeked of free state bias because it seemingly gave the New England Emigrant Aid Company more time to move additional free state voters into Kansas before the election.

When the election for territorial delegate was held in late November, the pro-slavery candidate for the position won by a proverbial landslide. Former Indian Agent John W. Whitfield defeated his nearest opponent by almost 2,000 votes. Whitfield, the pro-slavery candidate, received 2,248 of the 2,830 votes cast. The nearest free state candidate, Robert P. Flenniken, former minister to Denmark, finished a distant second with 305 votes.<sup>55</sup> Whitfield's victory was even more impressive because Reeder had estimated that the territory contained somewhere between 1,500 and 2,000 adult males prior to the election.<sup>56</sup>

So how did Whitfield receive so many more votes than eligible voters? Quite simply, some 1,700 Missourians had crossed into Kansas to vote for the pro-slavery

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<sup>55</sup>See Cora Dolbee, "The Third Book on Kansas," *Kansas Historical Quarterly* 8, no. 3 (August 1939), 238-278. See also House Report 200, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., serial 869, 8. The Howard Commission noted 1,114 legal votes and 1,729 illegal votes in the delegate contest.

<sup>56</sup>Nevins, *Ordeal of the Union*, 313. For the vote totals used in this dissertation, see, "By Telegraph," "Kansas Election—Full Returns," 6 December 1854 in *St Louis Republican*, 7 December 1854, 2. See also House Report 3, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., serial 868, 5.

candidate. At the urging of Senator David Rice Atchison, many Missourians were compelled to make the relative short journey to Kansas to vote for the proper candidate and return home convinced they had done their duty for Missouri and the rights of slave owners throughout the nation.<sup>57</sup> Weeks prior to the election, Atchison had encouraged his fellow Missourians to go to Kansas and vote. “Should each county in the State of Missouri only do its duty,” Atchison surmised, “the question will be decided quietly and peaceably at the ballot-box.”<sup>58</sup> If New England could send its people to support the free state cause, there was no reason why Missouri could not do the same. There were no specific residency requirements stipulated regarding who was a legal voter in Kansas. The Organic Act’s only requirement was for eligible voters was that they were free white males above the age of twenty-one who claimed to be actual residents of Kansas. The only noted exception were members of the armed forces. All army personnel on duty in Kansas were excluded from suffrage rights or holding office in the territory by virtue of their service therein.<sup>59</sup> Given these limited qualifications for voting, it was virtually impossible to verify actual residency. If a white male claiming to be twenty-one showed up to a polling center, the polling judge generally allowed him to vote. This oversight would be corrected by later legislation, but in November of 1854 it helped ensure a pro-slavery victory.

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<sup>57</sup> See House Report 200, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., serial 869, 29.

<sup>58</sup> Nevins, *Ordeal of the Union*, 314.

<sup>59</sup> “Kansas Bill,” An Act to Organize the Territory of Kansas, 30 May 1854, Section 23, 3 in General Records of the Department of State, *Territorial Papers: Kansas 1854-61*, RG-59, M218, Reel 1. See also Nevins, *Ordeal of the Union*, 314.

According to the *St Louis Republican*—the most prominent daily newspaper in the region—the election was a resounding victory for pro-slavery forces and their ultimate objective. “Whitfield *was* elected, whatever others may say to the contrary, on the slavery question and no other.”<sup>60</sup> Atchison’s call for Missourians to protect their peace, their quiet, and their property had seemingly worked.<sup>61</sup> Kansas, in the eyes of many pro-slavery and anti-slavery supporters, was well on her way towards becoming a slave state. Her destiny seemed assured through the non-violent and “legitimate” means of popular sovereignty. So long as pro-slavery forces could control or dominate the ballot box, either legally or illegally, Kansas’s future as a slave state seemed assured.

In response to the election results, several free-state advocates analyzed the impact of Whitfield’s victory on their objective of making Kansas a free state. The *New York Tribune*, for example, declared that the free states had not done “their whole duty in the matter.” The *Tribune* stated that “we [free state advocates] have had plenty of talk of sending emigrants there, but the work has not been performed . . . We have confidence in our superior resources, but have not brought them to bear.” The article expressed regret for the opportunity lost in the “very first struggle at the ballot box.” But the territorial delegate election was only the first battle; the war for Kansas was just beginning. Energetic actions, not high-minded resolutions or moral speeches, would be necessary if Kansas was to be a free state. Popular sovereignty—however poorly executed—had given pro-slavery advocates an initial victory in the

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<sup>60</sup> “Kansas Election,” *St Louis Republican*, 3 December 1854, 2.

<sup>61</sup> Nevins, *Ordeal of the Union*, 314,

contest for Kansas. That victory, however, was never as complete or as absolute as many pro-slavery contemporaries believed.

The voting irregularities during the delegate contest had raised northern eyebrows but not far enough for anyone to question the outcome or for anyone to suggest organized violence as a means of achieving free state objectives in Kansas. Voting fraud, after all, was not a new phenomenon in territorial elections.<sup>62</sup> Popular sovereignty, no matter how naively conceived and improperly executed, had seemingly achieved its intended results as far as the administration was concerned. On the one hand, the "citizens" of Kansas had chosen their first popularly elected official. On the other, the election process had not disturbed the overall peace of the region. American citizens had used the ballot box to express their political beliefs and preferences. And they had done so without resorting to violence. As long as peace prevailed and the territorial government of Kansas maintained a semblance of order and security, there was no threat to the administration's primary objective of preserving the Union. The Pierce administration could attend to other pressing foreign and domestic issues as long as popular sovereignty was perceived to be working and the legitimacy of the territorial government remained unchallenged.

Unfortunately for Pierce and the Democrats, the next test of the popular sovereignty strategy would sow the seeds of discord that would eventually challenge

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<sup>62</sup>See Nevins, *Ordeal of the Union*, 314. Nevins discusses the precedent of what he called tomahawk claims made by Iowans in Nebraska that gave them a semblance of citizenship necessary to elect their preferred candidate as the Nebraska congressional delegate. For another interesting assessment of voting in Kansas, see "Kansas Elections," *Montgomery Advertiser*, 10 October 1855, 2. This report covered the re-election of Whitfield but it also noted the support of the Shawnee Indians for the pro-slavery ticket.

the legitimacy of the territorial legislature and destroy any sense of justice and fair play associated with popular sovereignty. After the preliminary census had been tabulated in early March, Governor Reeder then scheduled the long-awaited election of representatives for the territorial legislature for 30 March 1855.<sup>63</sup> News of Reeder's 8 March 1855 proclamation to hold the election did not reach St Louis until 16 March 1855.<sup>64</sup> A telegram from Independence dated 15 March provided a synopsis of the particulars surrounding the upcoming election. The dispatch reported that the key elements of Reeder's proclamation centered on voter qualifications and on how election results could be contested. Those issues were of some obvious import to the newspaper's readers. Regarding voter qualification, the proclamation required that a voter had to dwell in Kansas at the time of the election. To qualify, "He must then have commenced an actual inhabitancy, which he actually intends to continue permanently; and he must have made the Territory his dwelling, to the exclusion of any other home."<sup>65</sup> These stipulations were obviously intended to preclude and hopefully prevent another Missouri invasion of "illegal" voters. Those Missourians that had moved to Kansas with the "intent" on becoming residents could vote as bona fide settlers. Although there was no specific length of residency stipulated in the telegraphic report, the requirement to have an "actual inhabitancy" within Kansas meant that a qualified voter had to prove to the satisfaction of the election judges his intent to remain in Kansas permanently.

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<sup>63</sup> House Report 200, 34<sup>th</sup> cong., 1<sup>st</sup> sess., serial 869, 39.

<sup>64</sup> House Executive Document 66, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., serial 853.

<sup>65</sup> "By Telegraph," Independence, 15 March 1855, St Louis *Republican*, 16 March 1855, 2.

The second element, contesting elections, was also important. The *Republican* observed that the Governor had identified himself as the only authority that could make the final determination on any contested election. Fearful of Reeder's perceived free state bias, the *Republican* concluded that the Governor intended to make himself "legislator, judge and executive" if there were any contested elections. In many ways, the *Republican's* fears were correct. Even if someone else had been governor, he would have had the same powers. The organic law granted the territorial executive almost complete control over the initial territorial elections. Once the "legal voters" of the territory had chosen their own legislature, that body could make its own election rules, stipulate residency requirements, and pass territorial laws.<sup>66</sup>

Despite complaints concerning Reeder's handling and timing of the legislative election, the actions of pro-slavery supporters from Missouri once again guaranteed a pro-slavery victory. Just prior to the 30 March election, sparked by allegations of massive free state emigration to Kansas, some 5,000 Missourians crossed the border or the Missouri river into Kansas to cast their votes.<sup>67</sup> Some justified their actions as a counter to all the Yankee or abolitionist votes allegedly sent to Kansas by the likes of the New England Emigrant Aid Company.<sup>68</sup> Others just wanted to protect

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<sup>66</sup> "Kansas Bill," An Act to Organize the Territory of Kansas," 30 May 1854, Section 22, 2, in General Records of the Department of State, *Territorial Papers: Kansas 1854-61*, RG-59, M218, Reel 1.

<sup>67</sup> Nevins, *Ordeal of the Union*, 384-385. See also, Muldowny, "Administration of Jefferson Davis," 177.

<sup>68</sup> See, "From Washington," *St Louis Republican*, 16 April 1855, 2. See also, "Missouri Squatters in Kansas," *St Louis Republican*, 2 May 1855, 2 and "Reeder and Kansas," *Montgomery Advertiser*, 9 May 1855, 1. See also White, "It's Your Misfortune," 161. His totals differ slightly. See also House Report 200, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., serial 869, 37.

Missouri institutions by ensuring Kansas was no haven for runaway or fugitive slaves or for hated abolitionists. "While no objections are entertained to *bona fide* emigrants, for whatever opinions they may entertain," the *Montgomery Advertiser* reported of the Kansas election, "it can surely be no matter of surprise to the reflecting that no favor will be shown to THE HESSIAN MERCENARIES OF FANATICISM, who are sent there with the avowed purpose of making war upon the domestic institutions of a neighboring State."<sup>69</sup> Motivated by such rhetoric, thousands of white, male Missourians did their duty and voted in Kansas.

With the massive influx of Missourians into Kansas, the outcome was predictable. Of the 6,310 some odd votes cast, the pro-slavery candidates received 5,427 of them. A later investigation of the election returns concluded that of those votes cast, only 1,410 were actually legal under the election guidelines proclaimed by Reeder.<sup>70</sup> Nonetheless, the day after the election the *Kansas Herald* proudly proclaimed, "Kansas has proved herself to be S.G.Q." The acronym used by the *Herald* meant: "Sound on the Goose Question." And being sound on the goose equated to support for slavery and for a slave Kansas.<sup>71</sup> Not surprisingly, the *Herald*

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<sup>69</sup> *Montgomery Advertiser*, 18 April 1855, 1. See also, Nevins, *Ordeal of the Union*, 385.

<sup>70</sup> Nevins, *Ordeal of the Union*, 385. See also House Report 3, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., serial 868 and House Report 181, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., serial 868, 8-9. According to one account in House Report 200, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., serial 869, 30 the vote in the free state community of Lawrence reflected 781 pro-slave votes to 253 for the free state candidate. Of all the votes cast, 802 were deemed to be illegal and only 232 were thought to be legal.

<sup>71</sup> According to A.W. Reese, "pass words and grips were adopted for the purposes of mutual recognition and cooperation." Hemp came to mean "Death to All Yankees." See A.W. Reese, "Eyewitness to the Border ruffian invasion in 1855-56," A.W. Reese, Manuscript Collection, Box 1, KSHS, 43.

reported a smooth and peaceful election in the Leavenworth district where proslavery candidates easily defeated their “anti-slavery” or “free white state” opposition.<sup>72</sup>

Reaction to the pro-slave victory from free state supporters was less enthusiastic. One representative of the Massachusetts House articulated some of the ire and anger expressed by free-staters when he submitted a resolution effectively condemning the “invasion of Kansas by armed Missourians.” He demanded that the governor of Missouri “prevent a repetition of those outrages” while asking the President take immediate and “effective measures to ensure the sovereignty of Kansas.” The resolution concluded with a pledge from Massachusetts to support the constitutional rights of Kansas against those [Missourians] that would infringe upon them.<sup>73</sup> Others were appalled at the thought of pro-slavery supporters from Missouri crossing into Kansas to win the election and the “vote at the point of a bowie-knife and revolver.”

Free-state rhetoric could be just as vitriolic as that of the pro-slavery factions. A correspondent of the New York *Tribune* reporting from Leavenworth described one of the pro-slavery leaders associated with the Missouri invasion as follows: “After this ferocious monster got through instigating the violation of all law and order, urging fraud and violence with bloodshed and murder, he was followed by four

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<sup>72</sup>“O! K! On the Goose Question,” from *Kansas Herald*, Extra, 31 March 1855, in St Louis *Republican*, 6 April 1855, 2. The origin of the phrase “sound on the goose” is unknown.

<sup>73</sup> “By Telegraph,” Boston, 1 May 1855, in St Louis *Republican*, 2 May 1855, 3.



political bloodhounds, who breathed nothing but violence and destruction to every one who would not sustain the almighty cause of Slavery.”<sup>74</sup>

However fraudulent the elections of 30 March might have been, Governor Reeder certified most of the results guaranteeing a pro-slavery dominated territorial legislature. His action, regardless of his later shock at discovering the amount of fraud associated with the election, placed a pro-slavery legislature in charge of the territory.<sup>75</sup> The newly elected pro-slavery dominated legislature would create and implement the territory’s first set of laws. Once Reeder certified the election, all that remained for the governor to do was to set a date convening the new body. Reeder selected 2 July 1855. He also announced a distant townsite known as Pawnee, about 120 miles from the Missouri border, as the site for the legislature to begin its business. Between the conclusion of the election and the opening of the legislative session, Reeder went to Washington to seek a solution to the problem of electoral fraud.<sup>76</sup> At the very heart of the problem with the territorial legislature’s composition was the fundamental issue of legitimacy. How could a legislature elected by thousands of Missourians be convened to represent the interests of the bona fide settlers of Kansas?

Whatever Reeder tried to accomplish in Washington, he returned to Kansas without the support of the President. Pierce, acting in congruence with established

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<sup>74</sup> “The Invasion of Kansas,” Correspondence of the N.Y. Tribune, Leavenworth KT, 2 April 1855, in *Montgomery Advertiser*, 25 April 1855, 2.

<sup>75</sup> Nevins, *Ordeal of the Union*, 386.

<sup>76</sup> Nevins, *Ordeal of the Union*, 386.

party principles, refused to involve the Executive in territorial affairs.<sup>77</sup> For popular sovereignty to work effectively, the Democrats believed that the national government had to follow a strict policy of non-interference.<sup>78</sup> The President would not or could not use his position to dissolve the territorial legislature once Reeder had certified it. Whether he had the legal authority to do so is somewhat moot since Pierce had no personal inclination to get involved with the inner workings of territorial elections.<sup>79</sup> The executive's duty was to enforce the laws, not meddle with the electoral process.

Pro-slavery opinion supported the President's inaction in Kansas. "We see it stated," observed the *Republican*, "that Gov. Reeder will resign his office unless President Pierce agrees to sustain him against the 'invading hordes' from Missouri, and that he desires the President to 'order a new election for members of the Legislature, and to send a military force sufficient to protect the inhabitants of Kansas in the peaceful and independent exercise of the right of suffrage.'" The article further stated, "Certainly he [Reeder] will not stultify himself, after he has given certificates of election to decide majorities of each branch of the Assembly, by asking the President to dissolve this legislative body and order a new one; and, in order that it may have a peaceful conclusion, to introduce the military!"<sup>80</sup> This was the first time the use of military force had been mentioned regarding Kansas. But Pierce could not fathom the use of the military in a civil affair let alone his interference in the

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<sup>77</sup> For an example of Pierce's commitment to the principle of non-interference see, "Pierce Inaugural," 4 March 1853 in Richardson, *Messages and Papers*, 200.

<sup>78</sup> See "First Annual Message," 5 December 1853, in Richardson, *Messages and Papers*, 224 for Pierce's beliefs regarding the necessity for minimum of federal government.

<sup>79</sup> "Fourth Annual Message," 2 December 1856 in Richardson, *Messages and Papers*, Vol. 5, 405-407.

<sup>80</sup> "Who is Responsible!" *St Louis Republican*, 9 May 1855, 2. see also, "What do they Propose to Do!," *St Louis Republican*, 8 May 1855, 2.

territory's electoral process.<sup>81</sup> As far as Pierce and the pro-slavery forces were concerned, the election was over, the legislature was a legitimate body; all that remained was for them to commence the process of legislation.

Without support from Washington, there was little Reeder or the free-state supporters could do to invalidate the election results. Short of encouraging greater free-state immigration in to the territory, which they did, free-staters could only wait and see what the legislature would do when it convened at Pawnee on 2 July. When the legislative session began, it was quite clear from the outset that its members intended to pursue a distinctively pro-slavery agenda.<sup>82</sup> Perhaps S.J. Waful, a newly elected member of the council, best summarized the legislatures objectives. "Kansas," Waful stressed, "May her virgin soil be unpolluted by the foul stain of free soilism."<sup>83</sup> It was also apparent that the representatives were prepared to challenge the governor's authority and to emphasize their power as the only "popularly-elected" governmental body in Kansas. After Reeder's proclamation opening the session was read, the first action the assembly took was to remove the legislative session from Pawnee back to Shawnee Mission until a permanent seat of government could be identified and approved. Reeder refused to sign the relocation bill and returned it under his veto authority on 6 July. By one o'clock that afternoon, the legislature had

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<sup>81</sup> For more on Pierce's views regarding the army and its role in American society see, "Pierce Inaugural," 4 March 1853, in Richardson, *Messages and Papers*, 200.

<sup>82</sup> House Report 181, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., serial 868, 9.

<sup>83</sup> Brewerton, *War in Kansas*, 378.

quickly and easily overridden the governor's veto with only one dissenting vote.

The Pawnee legislature adjourned. It reconvened at Shawnee Mission on 16 July.<sup>84</sup>

Once back at Shawnee Mission, Governor Reeder refused to recognize the legality of the relocation. Reeder returned every bill the assembly sent to him for signature. The governor justified his vetoes based on his belief that the legislature could not pass any legislation at Shawnee Mission since it was not the designated seat of government. Unless the assembly returned to Pawnee, where Reeder just happened to have had claims for choice real estate lots as a member of the Pawnee Association, the governor refused to sign any legislation. The assembly countered Reeder's tactics by overriding his vetoes. More importantly, they resolved to end the ongoing dispute with Reeder by sending a memorial to Washington asking for his immediate removal.<sup>85</sup>

As Pierce pondered Reeder's future as governor, the legislature continued its mission to legally entrench the institution of slavery in Kansas. They passed draconian measure after measure over each of Reeder's vetoes. Using the statutes of Missouri as a guide, they passed even harsher laws regarding the protection of slavery. In Kansas, it was a felony to harbor or give aid to a fugitive slave. Anyone who violated this law could expect up to ten years in prison. Officeholders were restricted to pro-slavery men. Individuals that denied the legal existence of slavery in

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<sup>84</sup> "Kansas Legislature," *St Louis Republican*, 16 July 1855, 2.

<sup>85</sup> "Kansas Legislature," *St Louis Republican*, 27 July 1855, 2 and "By Telegraph," "Kansas Territory," *Kansas*, 26 July 1855, and "Latest Dispatch," *Shawnee Mission*, 26 July 1855, *St Louis Republican*, 27 July 1855, 2.

Kansas were subject to imprisonment for not less than two years.<sup>86</sup> But perhaps the most significant act performed by the first legislature was its removal of the few free-state representatives that had been certified by Reeder. "Although less spectacular than the incredible statutes," David Potter concluded, "this expulsion proved far more serious in its consequences, for it impelled the free-state men to deny the validity of the territorial government and to set up a rival government of their own."<sup>87</sup> This question of "validity," or, more appropriately "legitimacy," of the legislature proved to be the fundamental problem faced by the government and the people.<sup>88</sup> If popular sovereignty was to have any chance as the preferred means to resolve the issue of slavery in Kansas, the territory's citizens—all citizens—had to accept the legitimacy of the government that ruled over them.

Legitimacy, the "perception that authority of the government to govern is genuine, effective, and uses proper agencies for reasonable purposes" was and is the basis for any successful popularly elected government.<sup>89</sup> When the "fraudulently elected" or "bogus" Kansas legislature assembled in Pawnee, it had at least a modicum of legitimacy. The governor had certified its members and he had opened the legislative session in accordance with Organic Law. But once the legislature convened, its pro-slavery majority lost any hope of sustaining even a scrap of legitimacy in the eyes of the free-state population of Kansas. Its draconian laws on slavery coupled with the virtual denial of free-state representation in the territorial

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<sup>86</sup> For other examples, see House Report 200, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., serial 869, 43-44.

<sup>87</sup> Potter, *Impending Crisis*, 204.

<sup>88</sup> For an assessment of this issue, see House Report 200, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., serial 869, 35.

<sup>89</sup> *Doctrine for Joint Operations*, 1 February 1995, V-4.

government forced the free-staters to either comply with these so-called "bogus" laws or to seek alternative solutions. They chose the latter option. By late summer and early fall, the various elements that comprised free-staters in Kansas came together in a common cause against the "bogus" legislature at Shawnee Mission.

The subsequent free state convention at Big Springs on 5 September 1855 marked the beginning of the official political polarization of Kansas. The convention solidified the free-staters commitment to legitimate government and its opposition to the existing territorial legislature.<sup>90</sup> The handbill advertising the convention promised the adoption of a platform "upon which all may act harmoniously who prefer Freedom over Slavery." The pro-slavery party was already "fully and effectually organized" with a clear objective of making Kansas a slave state. To counter their efforts and to pursue their own objectives, the free-state men had to do the same if they were to succeed.<sup>91</sup> After Big Springs, the free state party elected its own delegate to Congress, drafted its own constitution for admission into the Union, and eventually elected its own "state" government. These actions effectively created a second government in the territory. It was a government that was legitimate in the eyes of the free-state men who organized and supported it. But its existence also created a situation in which the territory had two functioning governments. On the one hand, there was the territorial government. Although many of its members were elected fraudulently, the federal government had recognized it as the official legislative arm of the territory. The free-state government, on the other hand, while

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<sup>90</sup> Muldowny, "Administration of Jefferson Davis," 181.

<sup>91</sup> "Free State Convention [Handbill]," in Nevins, *Ordeal of the Union*, 391.

not necessarily illegal, was certainly extra-legal. It existed outside the standard rules that governed American political society. But as long as the free-state "government" did not directly challenge the legitimacy of the territorial or federal governments, its existence was grudgingly accepted if for no other reason than the constitutional right guaranteeing the freedom of assemblage.<sup>92</sup>

After the two sides were fully organized along ideological lines, noted historian Allan Nevins believed that the pro-slavery faction and the free-state party might have resolved their differences peacefully if the issue had been left to themselves. Unfortunately for Kansas and its white inhabitants, every action, every event, and every circumstance associated with that territory "caught public attention from Fundy to Florida."<sup>93</sup> The future of Kansas and its domestic institutions were no longer, if they ever were, local issues. They were national issues with national implications. Northern and southern propaganda efforts further polarized an already dividing nation even further. The contest for Kansas took place at many levels. It was debated in Congress. It was fought in the nation's newspapers. And it was contested by various aid and emigrant societies from the North and the South.<sup>94</sup> The prize was not just the territory of Kansas; it was the direction of the nation's future. If the pro-slavery forces triumphed, the institution of slavery would know no limits. And if slavery triumphed, the nation's future as envisioned by free-soil and free labor

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<sup>92</sup> Potter, *The Impending Crisis*, 204. Potter said that there was "no legal sanction of any kind for defying the authority of the officially recognized territorial government—no matter how outrageous its legislation might be."

<sup>93</sup> Nevins, *Ordeal of the Union*, 393.

<sup>94</sup> For more on northern emigrant aid companies see, Johnson, *Battle Cry of Freedom*. For more on southern efforts see, Elmer LeRoy Craik, "Southern Interest in Territorial Kansas, 1854-1858" Ph.D. diss., University of Kansas, 1922.

advocates would be denied. To many, the fate of Kansas represented the fate of the nation.

With the creation of a free-state government juxtaposed to the pro-slavery territorial legislature, it was obvious that popular sovereignty was not working as advertised in Kansas. The escalating slide toward political chaos and disorder in Kansas concerned Pierce and the Democrats. But how could Pierce and his administration stop the descent once it had started? When would the administration be forced to interfere in Kansas? Or, in other words, what was the threshold of chaos necessary to justify the interference of the federal government in territorial affairs.

In his second annual message to Congress, Pierce provided some insightful clues concerning his personal guidelines regarding what role of the federal government should play in maintaining order. "We have to maintain inviolate the great doctrine of the inherent right of popular self-government;" Pierce proclaimed on 4 December 1854, "to reconcile the largest liberty of the individual citizen with complete security of the public order; to render cheerful obedience to the laws of the land; to unite in enforcing their execution, and to frown indignantly on all combinations to resist them."<sup>95</sup> In what historian Roy Nichols refers to as Pierce's political credo, it is easy to discern the President's view on events in Kansas.<sup>96</sup> In short, law and order must prevail. If the Shawnee Mission legislature was the recognized governmental body of the territory, then the federal government must

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<sup>95</sup> "Second Annual Message," 4 December 1854, in Richardson, *Messages and Papers*, 292.

<sup>96</sup> Roy F. Nichols, *Franklin Pierce: Young Hickory of the Granite Hills*, (Philadelphia: University of Pennsylvania Press, 1958), xii.



support it. Those that violated or resisted those laws must be handled accordingly. Order must be maintained. And order coupled with obedience to law equated to peace in context of events in Kansas.

Given Pierce's overarching objectives to preserve, strengthen, and enlarge the Union, it was essential that the Kansas question be resolved peaceably. As long as the upstart free-state government did not openly challenge the authority of the territorial legislature, Pierce was reluctant to involve the federal government. As long as peace existed, regardless of how precarious that peace might be, there was no need to use federal force to guarantee order and security in the turbulent territory. The critical factor in the preservation of peace, as far as Pierce was concerned, was unquestioned obedience to the laws of the land. If those laws were offensive to the people, there was a viable means of changing those laws within the American system of government—the ballot box. From the free-state perspective, however, the problem in Kansas resulted from the misuse of the ballot box. How could bona fide free state settlers in Kansas accept the legitimacy of a legislature elected predominantly by votes from Missouri? Moreover, if that fraudulent or bogus legislature enacted laws preventing members of their party from sitting in the legislature, how could they expect fair representation or equal justice? Free-staters were not denied suffrage in Kansas, but in essence they could only vote for pro-slavery candidates. To rectify this injustice, free-staters formed their own

government. But they also went a step further. They also formed their own militia ostensibly to defend themselves from the pro-slavery fanatics.<sup>97</sup>

In sum, both sides had established political and military organizations by late November 1855. Each had its own distinct political objectives, which seemingly could not be reconciled via the ballot box as Pierce and the Democrats had desired. Popular sovereignty had failed. Its center of gravity was the ballot box. As one Leavenworth resident aptly observed, "Kansas seems destined to be the Belgium of America. When the ballot box becomes unsafe life & property is as much by."<sup>98</sup> When pro-slavery Missourians exploited that center of gravity, they ensured a pro-slavery legislature in Kansas. But in achieving their objective, they also forced free state supporters to organize themselves in order to achieve their political goal. Undoubtedly, proximity to Missouri favored the pro-slavery effort in the early stages of the contest. Missouri-based pro-slavery leadership, manpower, and arms were but a short distance away from the beleaguered territory. The contiguity between Kansas and Missouri aided pro-slavery efforts to organize armed bands, whether they were used to "Mormonize" the abolitionists or to turn out hordes of voters.<sup>99</sup>

The free-state elements, on the other hand, sought and received financial aid and resources from more distant points. The New England Aid Company, for one, actively promoted emigration, provided financial support, and seemingly had no

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<sup>97</sup> Potter, *The Impending Crisis*, 205. Potter refers to Jim Lane's propensity to raise troops to "menace the territorial officials."

<sup>98</sup> J.B. McAfee to Charles Sumner, 15 December 1855, in E.L. Pierce Collection, KSHS. See also Lydia P. Hall to Charles Sumner, 27 January 1856 in E.L. Pierce Collection, KSHS for a similar observation.

<sup>99</sup> William J. Cooper, Jr., *Jefferson Davis, American* (New York: Alfred J. Knopf, 2000), 269.

qualms about arming its supporters with the best weapons money could buy in the 1850s.<sup>100</sup> After free-staters had lost hope in resolving the slavery extension issue via the ballot box, they disavowed the legitimacy of the territorial legislature and created their own. Their action was a clear challenge to the authority and legitimacy of both the territorial and federal governments. But as long as the armed factions remained peaceful and order prevailed in Kansas, the Democratic administration in Washington saw no need to interfere. There was no need for the army to conduct domestic peace operations in Kansas short of chastising recalcitrant Plains Indians and protecting lines of communication. Neither the free-state movement nor the "law and order" party were perceived to be major threats to the preservation of the union or the dominance of the Democratic Party. But when conflict between free-staters and pro-slavery groups turned violent in late November 1855, the administration began to see Kansas as a political liability that needed immediate attention if it was to keep the Democratic Party in power and to keep the nation united.

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<sup>100</sup> Johnson, *Battle Cry of Freedom*.

## Chapter 3

### The Army, Indians, and Peace Enforcement Operations on the Plains: The Sioux Expedition of 1855

By God—I'm for war not peace.<sup>1</sup>

—Brevet Brigadier General William S. Harney

The synonym for peacemaking and peace-enforcement is war. And war, as Clausewitz tells us, is a serious means to a serious end, to be entered into only for essential political reasons.<sup>2</sup>

—Alan L. Gropman

A much more serious weakness—perhaps a fatal flaw—lies in the very concept of peace-enforcement, the notion that peace can be imposed on a reluctant and notoriously proud people at gunpoint and that the social fabric of their nation can be rewoven at the direction of outsiders.<sup>3</sup>

—T. Frank Crigler

Before the Pierce administration used the army as peacekeepers in Kansas during 1856, an incident involving several bands of Lakota and a Mormon emigrant train traveling along the Oregon Trail necessitated the use of the army as a peace enforcement tool. The administration's obligation to protect travelers and settlers along the Oregon Trail coupled with its expansion goals were complicated by the presence of indigenous peoples along vital line of communications in the trans-Missouri West. Although most Indian threats along the key routes that traversed the plains were limited to small raids and robberies, the Pierce administration was compelled to take military action against the Lakota in 1855 once the Brules massacred twenty-four federal troops attempting to arrest a Miniconjous named High Forehead for the killing of an emigrant-owned cow.

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<sup>1</sup> Garver, "The Role of the United States Army," 652.

<sup>2</sup> Alan L. Gropman, "Peace-Enforcement Is An Oxymoron—Its Synonym Is War," in *Peace Operations*, Version 3 (Fort Monroe, VA: Joint Warfighting Center, 1997), 1.

<sup>3</sup> T. Frank Crigler, "The Peace-Enforcement Dilemma," in *Peace Operations*, Version 3 (Fort Monroe, VA: Joint Warfighting Center, 1997), 7.

If peace was to prevail in the trans-Missouri West, the federal government had to use whatever means it had available to ensure the security of the region. The army, with its physical coercion capability, and the local Indian Agents, with their economic instrument of coercion, were the primary means available for the government to achieve its objectives. The government's decision to chastise those Sioux who had violated the Treaty of Fort Laramie and more importantly punish those Indians who had participated in the massacre of army soldiers in August, 1854, presented the army with the necessity to conduct a peace enforcement operation. There was no intent by the Pierce administration to wage war against the whole of the Sioux nation or against any particular band of the Lakota. The purpose of the expedition was limited to measures designed to restore peace to the contested region along the Oregon Trail and to bring the perpetrators of the incident to justice. With these limited aims, the army sent an expedition under the command of Brigadier General William S. Harney into the heartland of the Lakota people in the late summer of 1855. By March, 1856, Harney had accomplished his mission and restored peace to the region. But two questions remain: what events and objectives necessitated the use of the army as a peace enforcement tool and how did the army accomplish its objectives without generating a larger conflict between the Sioux and the United States?

On 18 August 1854, a solitary cow wandered off from its herd that had been traveling along the Oregon Trail. The directionally-challenged bovine was part of a Mormon emigrant train heading for Utah. As the train neared Fort Laramie, the errant cow caught the eye of a Miniconjous Sioux named High Forehead. He was

encamped with a large group of Brule not far from the heavily traveled route to the West. The stray cow provided High Forehead with a seemingly innocent opportunity to acquire some much-desired food. The cow's demise, however, would have far greater consequences than High Forehead or any other Lakota could have imagined.

Word of the cow's slaughter reached the commander of Fort Laramie the following day. Some accounts claimed that the Mormons reported the missing cow once they had reached Fort Laramie.<sup>4</sup> But the first army account of the incident stipulated that the head chief of the Brules had reported the incident to the post commander, Lieutenant Hugh B. Fleming. The report also claimed that the Brule Sioux chief "offered to give up the offender."<sup>5</sup> Regardless of Chief Bear's alleged offer to surrender the perpetrator or of other accounts concerning how the incident began, Lieutenant Fleming authorized a detachment of twenty-four men to proceed from the fort to the Brule encampment to arrest the guilty party and to bring him to justice.

Fleming appointed Brevet Lieutenant John L. Grattan to lead the detachment assigned to make the arrest. Grattan left Fort Laramie on 19 August with an interpreter, one sergeant, one corporal, and twenty soldiers to receive the offending Miniconjou Sioux from the Brules. Grattan's command headed toward the Indian camp with confidence that they could arrest the offending Sioux and demonstrate

reason Fort Laramie existed was to protect both the lines of communication that stretched from western Missouri all the way to the Pacific coast and the emigrants that used them. The small detachment of troops at the fort was not expected to patrol the entirety of the Oregon Trail, but they were responsible for the areas within their operational reach. More than likely, the troops that left Fort Laramie on that hot August day probably expected to be home by dinner with their captive in hand. Enforcing the stipulations of the Treaty of Fort Laramie may not have been the most exciting military function, but it was necessary to sustain the perceived peace, order, and security of the region.

Little did Lieutenant Grattan know that he would die on that seemingly innocent afternoon. The arrest of a cow-killing Miniconjous should have been a simple, uneventful operation. It was not. For their part, the various bands of Lakota that had assembled in the vicinity of the fort probably had no reason to suspect that the killing of a lost cow would lead to a military conflict with the United States Army. Their presence near the fort and the Oregon Trail was innocent enough: they had assembled there to receive their much-cherished annuities, which were given to them as part of the Fort Laramie treaty. Unfortunately, their Indian Agent, John W. Whitfield, had not yet arrived. Normally, the agent resolved disputes between emigrants and Indians in accordance with the Indian Intercourse Act of 1834. But the circumstances surrounding the Mormon cow were not normal.

As the Lakota bands pursued their daily routines on 19 August, Lieutenant Grattan and his detachment arrived at the Brule camp. Based on his understanding of

the earlier communication between Lieutenant Fleming and Bear, Grattan asked the Brule Chief to turn over the culprit.<sup>6</sup> Bear refused. The Brule Chief and other Sioux leaders suggested that the eager young officer wait until their Indian Agent arrived with the expected annuities before resolving the issue. Had Grattan done so, Whitfield could have easily replaced the butchered cow with one from the annuity herd. But the anxious Lieutenant refused to wait. He may not have known when Whitfield would arrive or if Whitfield could have resolved the issue peaceably. Nevertheless, Grattan was ready to make his arrest and return to Fort Laramie with High Forehead.<sup>7</sup>

Grattan had ordered his two artillery pieces prepared for possible use once he had arrived near the Brule camp. Perhaps he had hoped the howitzers would intimidate Chief Bear and the other Sioux bands; they did not. After negotiations between Grattan and Chief Bear failed to produce High Forehead, the overconfident and inexperienced Lieutenant ordered his men to open fire. The two artillery pieces fired, but did little damage. Grattan's men had aimed the howitzers too high. But in the ensuing melee, Chief Bear was mortally wounded. Grattan and his men tried to escape from the Brule camp, but they were hopelessly outnumbered. The Brules and other Sioux bands present soon killed all of Grattan's detachment with the exception

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<sup>6</sup> The name of the Brule chief seems to have been a point of debate among academics. In *American Indian Tribal Governments*, Sharon O'Brien refers to him as "Bear that Scatters." Robert Utley said his name was "Conquering Bear." And George Adams called him "Brave Bear" in his biography of William S. Harney. I have only used "Bear" since that seems to be the common denominator among those that have researched the Grattan massacre.

<sup>7</sup> Adams, *Harney*, 120-121.



of one soldier. The wounded soldier made his way back to the fort, but died a few days after his return.<sup>8</sup>

The news of the Grattan massacre was slow to reach higher headquarters. An express detailing the tragedy did not reach Fort Leavenworth until 5 September, sixteen days after the event.<sup>9</sup> In his message to the commanding officer at Fort

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<sup>8</sup> "Frightful Massacre by the Sioux," *Kansas Herald*, 15 September 1854. In this account of the massacre, the Sioux fired first and then Grattan and his men responded before they were killed.

<sup>9</sup> The Grattan Massacre of August 1854 revealed the difficulties and limitations associated with communications that the Army endured between distant posts and higher headquarters to the east. Fleming's express detailing the massacre arrived at Fort Leavenworth on 5 September, 16 days after departing Fort Laramie. Fleming had no information concerning the motive for the massacre. Nor did he have any estimate of the casualties inflicted on the attacking band. He believed that the fort was under threat from the hostile Sioux, but felt confident he and the remaining troops could hold the facility for the time being. Fleming asked for immediate reinforcements.

Upon receipt of Fleming's express, Captain F.E. Hunt, the Fort Leavenworth commander, immediately forwarded the report via telegraph to the Department of the West Headquarters in St Louis and to the Adjutant General's Office in Washington. The respective telegrams arrived in St Louis on 7 September and in Washington on 11 September. The Department of the West headquarters, however, was located at Jefferson Barracks, some eleven miles south of St Louis. Fortunately, the telegram was quickly relayed to the headquarters on the same day. The following day, Brevet Brigadier General Newman S. Clarke, Commander of the Department of the West, forwarded the news telegraphically to the Commanding General in New York and to the AGO in Washington with recommendations on how to handle the situation. The Commanding General's, Assistant Adjutant General, Irwin McDowell, forwarded General Clarke's message via telegraph to the AGO on 10 September. The telegram from New York arrived in Washington at 2058 in the evening and did not reach the War Department until the next day. Ironically, the telegraph sent by Captain Hunt on 5 September from Fort Leavenworth (undoubtedly through the telegraph office at nearby Weston, Missouri) and the 8 September telegraph from General Clarke out of St Louis did not reach the AGO until 11 September. By that time the General-in-Chief had already replied to and concurred with General Clarke's plan to send two companies from Fort Riley to reinforce those at Fort Laramie.

The two-day transmission time between Weston (Fort Leavenworth) and St Louis was not uncommon. Depending on the status of the line between Weston and other stations en route to St Louis, the message could have easily been held up overnight in one of the telegraph locations between the two points due to limited operating hours or the message could have been delayed to allow for repairs to faulty or damaged lines. The further up the Missouri river the telegraph line went, the less likely the lines were to remain operational. Wires past Independence were often strung over tree limbs and were denied even limited protection offered by insulators and gutta percha coverings. The elements quickly degraded the efficiency of the wires and without regular replacement and maintenance they often failed to perform. Whatever the cause, it often took more time to transmit telegraph messages from the western fringes to St Louis than one would expect. Once messages arrived in St Louis, however, they normally proceeded eastward without delay. The three-day delay of Clarke's telegram to Washington from St Louis was as unusual as was the six-day transmission from Fort Leavenworth to Washington. Short of an intentional delay at St Louis, there was no evidence to explain why it took so long for those telegrams to reach Washington.

Leavenworth, Fleming relayed his concerns regarding the safety and well being of what was left of his command. Without Grattan and his detachment, Fort Laramie was reduced to only about forty soldiers.<sup>10</sup> Enough to hold the installation for a while, but reinforcements and new supplies were desperately needed. Most importantly, Fleming did not know what the Brule's intentions were. The hostile Sioux had already raided the nearby American Fur Company warehouses belonging to traders James Bordeaux and Pierre Chouteau in the aftermath of the massacre.<sup>11</sup> Talk of taking the fort too had worried Fleming, but the angry Sioux had already decided they had accomplished enough in their victory over the army.<sup>12</sup>

The particulars surrounding the events that led up to and resulted in the Grattan Massacre will never be fully known. What was known, however, was the fact that the single act of killing of a stray emigrant cow quickly escalated into a

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Despite the telegraphic delays, the news of the massacre sped across the country exponential faster than it had in getting from Fort Laramie to Fort Leavenworth. The traditional duplicate of the incident sent by mail did not arrive at the War Department until 18 September, six days after the inexplicably delayed telegram. Even when degraded, the telegraph network had performed much quicker than the mail system.

The Grattan Massacre clearly illustrated the communications difficulties the Army encountered in the trans-Missouri west. The Department of the West was located in a nearly ideal position to take full advantage of the existing telegraph network that existed in the 1850s. Its proximity to St Louis translated into timely communications by mail, express, or telegraph. The access to railroads also provided the Department another option communications option—the special messenger. A messenger could be sent to New York or Washington more promptly than the mail and just as fast as any express company. And a special messenger could do so with greater secrecy if the need for confidentiality was necessary. But for the commanders at Fort Leavenworth and Fort Riley their options were more limited. If the St Louis and Missouri River Telegraph Company remained operational, then Fort Leavenworth was within one or two days reach of St Louis and the Department Headquarters. If the lines failed, they could express information in three to four days. If the mails were the only option, it took anywhere from five to seven days to reach St Louis from Fort Leavenworth. See Hunt to Page, telegram, 5 September 1854, RG 393. See also McDowell to Cooper, telegram, 10 September 1854, LLAGO, Roll 498; and Hunt to Cooper, telegram, 5 September 1854, LLAGO Roll 498.

<sup>10</sup> Garver, *Role of the United States Army*, 649.

<sup>11</sup> Adams, *Harney*, 121.

<sup>12</sup> W.B. Fleming to Commanding Officer, Fort Leavenworth, 20 August 1854, LLAGO, Roll 498.

massacre of United States soldiers and the death of a Brule chief. Although Lieutenant Grattan's inexperience and hubris may have turned a negotiable situation into one resolved through violence, many Americans who read of the account in their local papers demanded retribution for the "treacherous slaughter" of United States troops near Fort Laramie.<sup>13</sup>

Under the Treaty of Fort Laramie of 1851, numerous Plains Indian peoples had pledged to live in peace and amity with the United States. The treaty with the various bands of Sioux (Lakota), Cheyenne, Arapaho and other central and northern plains tribes had allowed the United States transit rights through Indian lands. Of the roads that bisected lands occupied by the Lakota, the Oregon Trail was one of the most used and one of the most important to the United States. It was the main road used by emigrants migrating to the Pacific coast. But it also passed through valuable hunting ranges used by the Sioux and other Plains Indians for food, shelter, and clothing. American emigrants expected unharassed freedom of movement for those citizens who traveled on the various roads. They expected compliance from the Sioux and swift retribution from the government if the Sioux or any other indigenous people violated that treaty stipulation.

The Fort Laramie Treaty had also designated certain geographical areas in which each Indian nation was to reside. These zones of separation made good political and military sense to the United States government, but the indigenous peoples of the plains were not used to being restrained in their movements. Most

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<sup>13</sup> "Treacherous Slaughter of U. States Troops at Fort Laramie," *St Louis Republican*, 10 September 1854, 2. See also, "The Sioux Expedition," *St Louis Republican*, 2 June 1855, 2.

were nomadic peoples who moved regularly or when it was necessary to do so. To accommodate these nomadic traditions, Article 5 of the Fort Laramie Treaty recognized the various Indian nations' rights to other lands and the "privilege of hunting, fishing, or passing over any of the tracts of country heretofore described."<sup>14</sup> For their cooperation and compliance with the treaty, the United States government promised to protect "the aforesaid Indian nations against the commission of all depredations by the people of the said United States." Should any band or individual of the treaty nations commit depredations against the American people, however, they were required "to make restitution or satisfaction for any wrongs committed" once the United States Senate had ratified the treaty.<sup>15</sup>

High Forehead's butchering of a wandering Mormon-owned cow was evidently an incident that required such restitution and justified his arrest. Regrettably, Lieutenants Fleming and Grattan were too impatient to wait for the government's official representative to the Upper Platte region to arrive before they took action on their own. Both officers were, in hindsight, far too young and inexperienced to resolve such potentially delicate disputes between emigrants and Indians. Grattan was but one year out of West Point, and Fleming was only one year his senior. The newly-commissioned lieutenants could have benefited greatly from the sage advice of a proven Indian Agent or better direction from a more experienced military officer. Neither was readily available.

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<sup>14</sup> "Treaty of Fort Laramie with Sioux, etc., 1851," in Charles J. Kappler, comp., *Indian Affairs: Laws and Treaties*, Vol. II, (Washington DC, 1904), 595. See also Sharon O'Brien, *American Indian Tribal Government* (Norman: University of Oklahoma Press, 1989), 141.

<sup>15</sup> Kappler, "Treaty of Fort Laramie with Sioux, etc., 1851," 594.

Part of the explanation for Grattan's actions centered on the army's frontier strategy to protect emigrants and lines of communication. The placement of forts with lightly manned units along major emigrant routes often left green officers to their own devices to learn the intricacies of White-Indian relations. Unable to communicate with higher headquarters or with any other post in a timely manner, the lieutenants often decided to resolve local situations on their own. The result was catastrophic for Grattan and his detachment and costly in lives and economy for those Sioux bands implicated in the massacre. Most importantly, the tenuous peace that had existed on the plains since the first incursions of the United States was about to be shattered.

In the aftermath of the massacre, most of the Sioux bands around Fort Laramie were united in their anger against the army. The United States government and the American people were also united. Regardless of the fact that the army was largely responsible for the incident, the United States government sought to punish the guilty parties responsible for the "murder" of Grattan and his soldiers. Given this tense, emotionally-laden environment, the stage was set for the first of many army punitive operations designed to restore peace and the rule of law in the plains.

While the death of a single cow may seem to have been an insufficient *casus belli*, the cascading effects that followed led to what some—like Alan Gropman—might call "war" or what this dissertation calls peace enforcement operations. The difference between the two terms is somewhat subtle, but the distinction is important. Since the Brule and all other indigenous peoples that had signed or agreed to uphold

the tenets of the Fort Laramie Treaty resided within territory claimed by the United States, they found themselves in an awkward political relationship with the United States government. On the one hand, the United States claimed sovereignty over all indigenous peoples within its internationally-recognized borders. Those peoples, however, were not American citizens. On the other, the United States government treated Native American tribes as if they were sovereign nations. Indicative of this fact was the use of treaties to govern relations with the various indigenous peoples. Whether they were Sioux, Cherokee, or Cheyenne, the American government treated them as if they were sovereign political entities. Treaties themselves were formal diplomatic tools used between nation-states as a means to resolve disputes or to formalize agreements. The United States government had used treaties as a means to govern its relations with the various Indian nations within its borders since it became an independent nation-state.<sup>16</sup> Although the various treaties with Native American peoples went through the same processes as those with other nation-states such as France or Great Britain, they were in effect fundamentally different.

In 1831, Chief Justice John Marshall of the United States Supreme Court ruled that Indian tribes within the jurisdiction of the United States were not foreign states in the traditional sense. In *Cherokee Nation v. Georgia*, Marshall concluded that the Cherokee, and, by implication, all other American Indian peoples, were what

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<sup>16</sup> The first treaty with an American Indian nation was concluded in 1778 between the United States of North America and the Delaware. See Kappler, "Treaty with the Delaware, 1778," 3-5.

he defined as "domestic dependent nations."<sup>17</sup> As such, indigenous peoples within the borders of the United States could negotiate treaties in good faith with the federal government. But since Indian nations were dependent upon the United States government for their survival, they existed at the pleasure and under the protection of the United States. In effect, Marshall's ruling made all Indian nations wards or dependents of the federal government. Because of that distinction, state governments could not legally interfere with sovereign Indian peoples. The federal government, on the other hand, could and did.<sup>18</sup>

The Fort Laramie and Fort Atkinson treaties were designed to guarantee peace and friendship between the United States and the Plains Indians.<sup>19</sup> They were also supposed to keep the peace between the various Indian nations of the plains. Peace on the trans-Missouri West to the United States government, however, equated to a guarantee of safe passage for emigrants along agreed upon transit routes. By restricting the Sioux's and other indigenous people's freedom of movement, the government had hoped to prevent future conflict and to increase the size and status of the United States. Should disputes arise, the government planned to resolve them through non-violent means via the Indian Bureau. That kind of peace, however, was difficult to maintain. Growing animosities among the various indigenous peoples of the plains, such as the Lakota and the Pawnee, coupled with the influx of Native

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<sup>17</sup> O'Brien, *American Indian Tribal Government*, 303. See also, Anthony F.C. Wallace, *The Long, Bitter Trail: Andrew Jackson and the Indians*, (New York: Hill and Wang, 1993). See also Tindall, *America*, 425.

<sup>18</sup> O'Brien, *American Indian Tribal Government*, 57-58.

<sup>19</sup> Kappler, "Treaty with the Comanche, Kiowa, and Apache, 1853," 600-601.

American emigrants removed from the east to the west by the United States made any such notion of peace tenuous at best.<sup>20</sup>

In the larger context, there were other circumstances that facilitated the use of violence as a means to resolve disputes between competing peoples and cultures. In his impressive work on the history of the American West, the historian Richard White described the Grattan incident as the logical outcome of a clash of between two expanding peoples.<sup>21</sup> The United States, from White's perspective, was not the only expansionistic-minded people that sought hegemony in the central and northern plains. The Lakota, of which the Brule were a part, were also noted expansionists. In response to their expansion along the Platte River valley, they had pushed the Skidi Pawnees away from those lands by 1850. And with the Pawnee removed from the Platte, the Lakota began hunting on both sides of the river that flowed along the path of the Oregon Trail.<sup>22</sup>

Inevitably, the increased emigrant traffic through the newly acquired hunting grounds caused concern among the Lakota. As more and more white emigrants passed through, there was a corresponding decrease in the amount of game, especially buffalo, available for Sioux hunters. The Lakota push towards the southern regions

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<sup>20</sup> On the traditional rivalry between the Sioux and the Pawnee, see D.C. Beam, "Reminiscences of Early Days in Nebraska," Transactions and Reports of the Nebraska State Historical Society, Vol 3 (Fremont, NE: Hammond Bros Printers, 1892), 294. Beam was a soldier in the 1<sup>st</sup> Dragoons. In his opinion, the Pawnee's were "the greatest thieves and the bravest Indians west of the Missouri. They were always at war with the Sioux and frequently with other tribes." The Shawnee and Delaware were reputed enemies of the Sioux. See also Juhnke, *Missing Peace*, 15 for comment on how Native Americans looked at peace.

<sup>21</sup> White, "It's Your Misfortune," 95. See also, Richard White, "The Winning of the West: The Expansion of the Western Sioux in the Eighteenth and Nineteenth Centuries," *Journal of American History* 65 no. 2 (September 1978), 319-343.

<sup>22</sup> White, "It's Your Misfortune," 95.



beyond the Platte River was further complicated by the passage of the Kansas-Nebraska Act in 1854. From a Lakota perspective, the organization of the previously mandated "permanent Indian territory" into a new home for more whites, probably looked like yet another white-tipped wedge or at least a white man's corridor aimed at the heart of their newly conquered hunting lands.<sup>23</sup> Recently negotiated treaties between the United States government and the relatively weak emigrant tribes resulted in the cession of millions of acres of Indian lands along the Missouri and Kansas rivers. The treaties ostensibly opened these newly ceded lands for white settlement. The federal government was able to complete these cessions because it controlled the annuities that served as a powerful economic leverage ensuring that those peoples such as the Delaware, Shawnee, and Kickapoo complied with the wishes of the United States. With this economic power, the federal government received millions of acres in land cessions. The federal government, however, did not so easily coerce the more militarily powerful and less economically dependent Indian peoples of the plains. Yes, the Sioux and other plains Indians had signed treaties with the United States, but they had not yet accepted their status as domestic dependent nations.

Once news of the Grattan massacre reached the Department of the West headquarters in St Louis on 7 September, Brevet Brigadier General Newman Clarke forwarded the news to higher headquarters in New York and Washington. The first word of the incident reached New York on 8 September, nearly twenty days after the

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<sup>23</sup> This concept comes from a seminar discussion facilitated by Professor Don Fixico, University of Kansas, on American Indian leadership during the summer of 2000.

event. In his telegram to the Adjutant General, Clarke relayed verbatim what Captain F.E. Hunt had telegraphed from Fort Leavenworth. Clarke also said that he would order one or two companies from Fort Riley to proceed to Fort Laramie at once to reinforce the command.<sup>24</sup> Clarke's telegram did not reach the War Department until 11 September. The telegram to New York had arrived sooner and the army headquarters relayed the same information to Washington on 10 September. The New York telegram also mentioned the need to supply Fort Laramie until the summer of 1855 with the necessary items from the quartermaster at Fort Leavenworth, assuming they had much left after the summer season. Clarke also asked that Lieutenant Colonel Hoffman, 6<sup>th</sup> Infantry, of Newport Barracks, Kentucky be assigned to the command immediately. Given the urgency of the situation General Clarke asked the Commanding General to respond by telegraph on Hoffman's status. General Scott made no remarks in the relayed telegram to the War Department, but stated that he would comment on the situation later.<sup>25</sup>

Two days after Clarke sent his telegrams to Washington and New York, the *St Louis Republican* printed an account of the massacre that clearly matched what General Clarke had forwarded. News of the massacre spread quickly throughout St Louis and Missouri before key decision-makers at Scott's headquarters and the federal government knew what had happened. The telegraphic section of the *Republican* announced the intended departure of troops from Fort Riley before either

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<sup>24</sup> Department of the West to Col Samuel Cooper, AGO, telegram, 8 September 1854, LLAGO, Roll 498.

<sup>25</sup> Headquarters of the Army, New York to Col Samuel Cooper, Adjutant General, 10 September 1854, telegram, LLAGO, Roll 498.

New York or Washington was aware of the order. The St Louis newspaper knew of the order even before the commander and troops at Riley knew of the deployment.<sup>26</sup> According to the *Republican*, they received their news from a telegram sent from Independence. Whatever their source, the *Republican* had accurately reported what the army knew and what the Department of the West intended to do about the incident before General Clarke's superiors had time to react. The publication of military news and events was certainly not uncommon in the press of the day, but the potential threat to operational security was obviously a concern given the access most major newspapers had to telegraphic communications.

Lieutenant General Winfield Scott approved Clarke's course of action on 11 September. He approved the movement of two companies to Fort Laramie from Fort Riley. He also agreed with the reassignment of Lieutenant Colonel Hoffman to the Department of the West. The particulars of their movement were left to Clarke's discretion. As departmental commander, Clarke already possessed the authority to move units within his area of responsibility. But to get support from other departments, he had to go through New York or Washington. Since Lieutenant Colonel Hoffman was out of his department, only the Commanding General or the Secretary of War could issue such an order. Additionally, General Scott expressed his belief to General Clarke that "measures [should] be taken to inflict a signal punishment for this outrage." As such, he ordered that additional units operating near

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<sup>26</sup> "Treacherous Slaughter of U. States Troops at Fort Laramie," St Louis *Republican*, 10 September 1854, 2 and "By Telegraph," St Louis *Republican*, 10 September 1854, 3.

the Arkansas River under Clarke's command to remain in the field until further notice.<sup>27</sup>

While the Commanding General's headquarters and the War Department pondered their options regarding the Grattan massacre, a correspondent for the *Republican* outlined some of the major issues that now challenged the federal government. "The sad intelligence recently received from Fort Laramie," the correspondent concluded, "is well calculated to make a deep and painful impression upon the mind of any Western man—in fact, upon the mind of the nation—as all are more or less interested in the important question, as to what course our Government will pursue in endeavoring to prevent a repetition of such disastrous and disgraceful scenes."<sup>28</sup> Would the government simply scold the Brule for their actions or would it chastise them with military force? Would the government withhold annuities as punishment or would it pursue another course of action? Of these likely options, the *Republican* correspondent stressed the military alternative.

He also noted some of the all-too-well-known problems associated with using military force against the relatively-powerful Brules. The correspondent used the Grattan massacre as an opportunity to chastise publicly the federal government for its "miserably mistaken policy" of thinking that the "petty little Forts" constructed along the Platte and Arkansas Rivers would serve as a deterrent to Indian aggressions.

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<sup>27</sup> L. Thomas, Asst Adj Gen'l, HQ USA to Brevet Brig Gen Newman S. Clarke, 11 September 1854, LLAGO, Roll 498. See also Thomas to Clarke, telegram, 11 September 1854, LLAGO, Roll 498; Thomas to Bvt Lt Col William Hoffman, Newport Barracks, Kentucky, telegram, 11 September 1854; Cooper to Clarke, 13 September 1854, telegram, Letters Sent, Adjutant Generals Office, RG-94, National Archives and Records Administration, Roll 18. Hereafter cited as LSAGO.

<sup>28</sup> "Massacre of U.S. Troops at Fort Laramie," *St Louis Republican*, 15 September 1854, 2.

Furthermore, the forts were manned by “fragments of a company of *infantry*, a force that could be of no more use in protecting travelers, or chastising Indians, than so many head of sheep.” The government’s defense policy was so ineffective that the correspondent deemed it a “useless waste of the public money.”<sup>29</sup> To resolve the issue, the correspondent recommended that Congress approve new mounted regiments requested by the War Department and designate them for Indian service. Infantry was inappropriate and ineffective against mounted and highly mobile plains Indians. The army needed cavalry and dragoons in greater numbers if it was to defend the lines of communications and to protect the emigrants who traveled across those roads to the west. Effective peace enforcement required proper military resources.

Although Scott and Secretary of War Jefferson Davis probably did not read the *Republican*’s critique, they certainly were well aware of the identified issues.<sup>30</sup> Following the massacre, Davis would get more regiments from Congress in 1855—two infantry and two mounted. Without the Grattan incident Congress might have balked at increasing the size of the army. Traditional fears of a large standing army still dominated American society.<sup>31</sup> And without a clear and present danger to the nation, Congress was reluctant to increase the army without just cause. Unknown to the *Republican* correspondent was the fact that Davis had already ordered General

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<sup>29</sup> “Massacre of U.S. Troops at Fort Laramie,” *St Louis Republican*, 15 September 1854, 2.

<sup>30</sup> “Second Annual Message,” 4 December 1854 in Richardson, *Messages and Papers*, Vol. 5, 286.

<sup>31</sup> For an example of the continued fear of large standing armies, see “Pierce Inaugural,” 4 March 1853, in Richardson, *Messages and Papers*, 200.

Scott to begin planning punitive operations against the Sioux.<sup>32</sup> The government, or at least the War Department, had opted for military force as the primary means to punish those involved in the massacre. Annuities to the offending parties would also be withheld in accordance with provisions of the Treaty of Fort Laramie, but the economic option was primarily an Interior Department operation. On 14 September, Davis approved Scott's initial troop movements and committed the War Department to what amounted to a peace enforcement operation. The Secretary concluded his note to Scott by telling him that "when the season permits, a sufficient force will be organized effectively to hold the nation or tribe responsible for this murder."<sup>33</sup> What Davis meant exactly when he said; "to hold responsible" was unclear. Despite Davis's ambiguity, Scott had his initial guidance from the War Department to begin preparing for the army's punitive campaign against the Sioux.

Since it was nearing the end of September, it would be impossible to launch an effective punitive expedition against the Sioux in 1854. The army needed time (i.e.—months) to organize, to equip, and to ensure that a suitable expeditionary force was properly trained before marching into hostile Indian territory. The army was ill prepared to conduct sustained military operations during a plains winter. Depots were needed throughout the region to supply the army with food, forage, and munitions. Fort Leavenworth served as the primary depot for operations west of the Missouri River. Sadly for the army, Leavenworth was some 600 miles away from

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<sup>32</sup> Cooper to Scott, 14 September 1854, LSAGO, Roll 18. See also Cooper to Scott, 11 December 1854, LSAGO, Roll 18.

<sup>33</sup> Cooper to Scott, 14 September 1854, LSAGO, Roll 18.

Fort Laramie. Moreover, the army preferred to transport supplies via waterways whenever possible. It was generally less expensive to do so, but water transport limited operations to periods when the rivers that serviced the west were navigable. These periods were usually in the late spring when rivers rose from melting snows and spring rains. Without the use of rivers, the army had to rely on overland transport—an expensive and time consuming proposition.

The quartermaster department normally orchestrated the supply needs for the army. Since it was a staff bureau under direct control of the Secretary of War, requests from the operational line units had to flow through the quartermaster's chain of command. Coordination of needed supplies occurred at three different levels. At the strategic or national level, the quartermaster general worked with the AGO and the Commanding General's Office in determining what was needed and how to get it where it was required. At the operational or departmental level, assistant quartermasters coordinated with their operational counterparts. The assistant quartermaster in St Louis, for example, synchronized departmental requirements with the Department of the West staff at Jefferson Barracks. At the tactical or local level, an assistant quartermaster such as Major E.A. Ogden at Fort Leavenworth forwarded local requirements to the Department of the West or issued supplies in accordance with guidance from St. Louis or Washington. In normal peacetime operations the system functioned adequately. But in war or during a crisis, the cumbersome process tended to retard timely dispersement of supplies and the scheduling of adequate transportation.

Another cumbersome process associated with the planning of a military campaign was intelligence.<sup>34</sup> Neither the army nor the navy of the 1850s possessed a formal intelligence gathering apparatus. The army tended to rely on local intelligence, or more appropriately information, derived from traders, scouts, and reconnaissance missions. There was no one organization that supplied traditional order of battle intelligence, terrain data, or other military information needed for adequate campaign planning. When a need for such information arose, the army simply requested it from the army post nearest the anticipated area of operations. In the case of the Sioux expedition, this was Fort Laramie. In October, Secretary Davis directed the commander of Fort Laramie to acquire the following information on the Sioux: "their numbers, their homes, the character of the country which they inhabit, the best points for operating against them, and any other information that may be useful; in determining the character and extent of these operations."<sup>35</sup> Major Oscar F. Winship had already collected this sort of information during his recent inspection of several of posts within the Department of the West. More than likely, Davis and the War Department had not received Winship's report when they asked Hoffman. Winship would not complete his final report until the end of September. Nevertheless, the army's need for information on the Sioux was clear. Since the

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<sup>34</sup> Intelligence in context of the 1850s was synonymous with information. The army had no intelligence function, as military organizations today would define it. The unprocessed information gleaned from various sources in the 1850s, however, served the same purpose as processed information does in the modern military.

<sup>35</sup> Cooper to Commanding Officer, Fort Laramie, via Independence, Mo., 17 October 1854, LSAGO, Roll 18.



expedition would not begin until spring at the earliest, the War Department had ample time to gather the information it needed for planning.

Davis also cautioned the Laramie commander to avoid contact with any Sioux band directly involved or implicated in the Grattan massacre that resided near his post. The Secretary's prohibition made it more difficult but not impossible for the army to collect information on the Sioux. Davis was sensitive to the operational security of the upcoming campaign and he did not want the Sioux to anticipate the government's action against them. He cautioned the commander to "avoid, if possible, every thing that may convey to them a knowledge of the intention of the government to organize an expedition against them."<sup>36</sup> Noticeably absent from Davis's demand for information was a requirement to understand or to seek out the Sioux's intentions. Perhaps that requirement was implied in the request for "other information," but it did not seem to be a major concern of Davis in particular or for the army in general.

Later in October, Davis selected the man he wanted to lead the Sioux expedition—Brevet Brigadier General William S. Harney. General Harney, however, was not readily available. He was in Europe visiting his wife and children. Davis informed Harney by mail of his selection to lead the Sioux expedition. He asked Harney to return to the United States and to prepare for a military operation against the Sioux early in the spring of 1855. In order to organize and prepare the expedition,

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<sup>36</sup> Cooper to Commanding Officer, Fort Laramie, via Independence, Mo., 17 October 1854, LSAGO, Roll 18. This letter was marked "confidential." There was no security classification guide regarding sensitive information in the 1850s. But the fact that Davis marked this letter as such was indicative of a need to hold certain information more closely than other types.

he expected Harney to be in St Louis by 1 February. If he arrived much later, it would be difficult to launch the campaign as early as possible. If Harney could not make it to St Louis by February, Davis asked Harney to inform him so he could select another capable expedition commander.<sup>37</sup>

As the army awaited Harney's return from Europe, initial planning for the operation continued. Before the end of the year, the army had received at least two intelligence estimates regarding the military capability of the Sioux targeted for punishment in the anticipated peace enforcement operation. One estimate came from Major Winship's scheduled inspection tour of the Department of the West. In addition to his inspections of Forts Riley and Leavenworth, Winship had also inspected Fort Laramie. Major Winship estimated that there were approximately 4,950 warriors attached to the various bands of Lakota that were directly suspected of participating in the August massacre or who were at least implicated in some way to the incident.<sup>38</sup>

The other estimate came from Brevet Lieutenant Colonel Hoffman, the new commander of Fort Laramie. General Clarke had specifically asked for Hoffman

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<sup>37</sup> Cooper to Brevet Brigadier General William S. Harney, C/O George W. Thatcher, New York, 26 October 1854, LSAGO, Roll 18. For an example of another officer who was interested in leading the expedition, see Lieutenant Colonel Phillip St George Cooke, Fort Leavenworth to Secretary of War, 7 November 1854, LRAGO, Roll 495.

<sup>38</sup> IG Report, 123, LRAGO, Roll 508. Winship made the following estimates of the various Sioux bands: Ogalalas—300 lodges and 900 warriors; Brule—350 lodges and 1050 warriors; Miniconjou—400 lodges and 1200 warriors; Blackfeet—250 lodges and 750 warriors; Oncpapas (Hunkpapas)—350 lodges and 1050 warriors. Winship based his estimates on a rather simplistic formula. Using information he had gathered from Sioux traders in the vicinity of Fort Laramie, the Major multiplied the number of lodges associated with a particular band by three. The Sioux traders had told Winship that the average Sioux lodge contained more warriors than other Plains Indian lodges. Although he considered three warriors per lodge too high, he used that formula to make his estimates and cautioned anyone who read his report that the numbers were more than likely an overestimate.

shortly after the news of the massacre reached St Louis. General Scott supported Clarke's request. Hoffman left his post at Newport Barracks, Kentucky to serve at Fort Laramie. And it was Hoffman who received Secretary Davis's confidential request for much needed information about the Sioux. Hoffman reported his findings to Washington in late November. His estimates of the combined Sioux military capabilities were noticeably lower than those of Winship. Hoffman appeared to rely more on actual figures than estimates. There was no set formula used to calculate the number of warriors per lodge. Hoffman concluded that there were some 3,900 warriors among the bands of Sioux that an expedition might expect to encounter, more than 1,000 less than what Winship had reported. Instead of the 1,650 lodges estimated by Winship, Hoffman tabulated only 1,420. Hoffman also reported an additional figure that gave a more complete picture of what the army would be up against. He provided total Sioux population figures that included women and children. Of the Sioux that might join in a fight against the army, Hoffman estimated a total population of 14,780.<sup>39</sup> Although Hoffman provided estimates of the number of combatants, it was interesting to note that he also felt compelled to provide total population figures. From the information Hoffman provided, the army could organize, train, and equip its expedition based on the anticipated number of warriors or it could plan for a military operation against the whole of the Sioux people.

Hoffman also provided other relevant information in his response to Secretary Davis. He provided a crude map of the area of operations that outlined possible

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<sup>39</sup> Brevet Lieutenant Colonel W. Hoffman to Cooper, 29 November 1854, in Senate Executive Document 22, 33<sup>rd</sup> Cong., 2<sup>nd</sup> Sess., Vol. 6, Serial 751.

avenues of approach. Depending on which band the army chose to punish first, Hoffman covered virtually all possible contingencies. Hoffman strongly suggested that the expedition consist of more than one command. A single column might never engage the highly mobile Sioux. He recommended a three-pronged approach. Each column should have at least five companies, two of dragoons and three of infantry accompanied by artillery support. One could march eastward from Fort Laramie, a second southward from Fort Pierre, and a third westward from Fort Kearney.<sup>40</sup> Although each individual column would be smaller than the combined force, it enhanced mobility and increased the chances that one column might actually engage the Sioux at some point. Ideally, the columns would converge on the Sioux once an engagement had commenced.

Colonel Hoffman also gave the War Department valuable information regarding the "character" of certain Sioux bands. Despite his "no contact" with the offending Sioux order from Davis, Hoffman was able to glean information regarding the intentions of some of the Sioux from various sources. The Ogalalas in particular attempted to express their concerns and reservations regarding what possible action the United States government might take against them in retaliation for their perceived participation in the Grattan affair. Unable to communicate directly with the soldiers at Fort Laramie, the chief of the Ogalalas dispatched a messenger to one of the local traders with the hope that the message would be relayed to the commander at Fort Laramie. The chief denied any involvement on behalf of the Ogalalas in

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<sup>40</sup> Brevet Lieutenant Colonel W. Hoffman to Cooper, 29 November 1854, in Senate Executive Document 20, 33<sup>rd</sup> Cong., 2<sup>nd</sup> Sess., Vol. 6, Serial 751.

perpetrating the massacre. He did admit to taking their share of the presents from the American Fur Trading facility in conjunction with the Brules, but that was to keep the Brule from taking what the Ogalalas believed rightfully belonged to them. Since the tragic events of 19 August, the Ogalalas had distanced themselves physically and militarily from the Brules. They declined the Miniconjous offer to make war against the whites and moved their village to an area around the Powder River where they joined with the Crows in a war against the Miniconjous. According to the Ogalalas Chief's message, twenty-five of the Miniconjous lodges that refused to fight the whites defected from the main group and joined the Ogalalas. The Ogalalas appeared to want peace and promised to "remain quiet" until they heard from Hoffman.<sup>41</sup> Constrained by Davis's orders, Hoffman could do little to exploit the Ogalalas's peace overtures. He would have to wait for guidance from higher headquarters.

Hoffman also learned of a large encampment of Brules, Miniconjous, Yanktons, Omahas, and Poncas that were committed to "keep up the war on the road all winter, and in the spring they will meet the troops who are sent against them." So much for Davis's attempt to hide the government's intentions from the Sioux. Attacks against mail contractors in September and November seemed to confirm the hostile Sioux's intentions to wreak havoc on the western lines of communication that passed through Sioux lands. Complicating the issue even more was the knowledge that several traders along the Missouri river apparently had no qualms about selling arms and munitions to the warring parties. To prevent the Sioux from acquiring more

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<sup>41</sup> Brevet Lieutenant Colonel W. Hoffman to Cooper, 29 November 1854, in Senate Executive Document 22, 33<sup>rd</sup> Cong., 2<sup>nd</sup> Sess., Vol. 6, Serial 751.

arms, Hoffman used his authority as post commander to prohibit all traders in his area from selling any munitions to any Indians at all.<sup>42</sup>

Hoffman's report provided the War Department with valuable military information, but it also revealed some of the shortcomings associated with planning for punitive-oriented peace enforcement expeditions. Perhaps the most important shortfall was the complete absence or at best minimal coordination with the Interior Department concerning the upcoming operation. Since its creation in 1849, the Interior Department was the primary government agency responsible for Indian affairs. The movement of Indian Affairs from the War Department to the Interior had generated some animosity between the two departments. It did not help matters that Secretary Davis strongly disliked the Commissioner of Indian Affairs, George W. Manypenny. The enmity between those two individuals often precluded any meaningful working relationship between the two departments at the highest levels. Strict reporting requirements for both departments generally kept information concerning Indian issues confined within each agency's chain of command. Even the simplest of tasks often required secretary-to-secretary coordination before a synchronized action could occur.<sup>43</sup>

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<sup>42</sup> Brevet Lieutenant Colonel W. Hoffman to Cooper, 29 November 1854, in Senate Executive Document 22, 33<sup>rd</sup> Cong., 2<sup>nd</sup> Sess., Vol 6 Serial 751.

<sup>43</sup> One of the most common examples was escorting. When Indian Agents or other Indian Affairs officials required protection they had to get permission from the army. Normally, the War Department approved escort requests from the Interior Department. But once tensions between the two departments increased, the War Department denied escort requests at an alarming rate. Officially, Davis would emphasize the need for all army personnel to meet current emergencies, such as the Sioux expedition, when denying an Indian Affairs escort requirement. Realistically, he probably could have supported most of the requests and still have met army needs for peace enforcement and peacekeeping operations. For an example of an escort denial, see Cooper to Colonel A. Cumming, Superintendent of Indian Affairs, 10 March 1855, LSAGO, Roll 18.

The Grattan incident itself furthered the gulf between the two departments as each accused the other of having a greater share of responsibility for the deadly outcome. Manypenny blasted the army for its complete mishandling of the Grattan affair. The Fort Laramie commander, in Manypenny's interpretation of the Indian Intercourse Act of 1834, had no authority "to arrest or try the Indian for the offense charged against him." Furthermore, Manypenny argued, the Mormons who lost the cow should have reported the incident to the nearest Indian Agent in accordance with the provisions of the 1834 act. Had they done so, the agent could have easily compensated them for their loss without military involvement. Implied in Manypenny's remarks was the fact that Lieutenant Fleming should have instructed the Mormons to resolve their claim with an Indian Agent. Because of the army's bungling, Manypenny argued that the Indian Bureau should have its own dedicated means to execute its own orders. The creation of such a force independent of the army—Manypenny believed—would prevent the Indian Bureau from future "embarrassment" and render the department "more effective." "A force better adapted to the Indian service than any now employed," Manypenny surmised, "could . . . be readily organized. But careful attention and kind and humane treatment will generally have more influence upon the savage than bayonets and gunpowder."<sup>44</sup> In essence, Manypenny believed that the army was the wrong tool to use when the need for force arose in Indian-white relations. The army, as judged by the Grattan affair,

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<sup>44</sup> Irwin McDowell to Cooper, 15 December 1854, LLAGO, Roll 498.

was too “trigger happy” to function as either effective peacekeepers or peace enforcement operatives.

General Scott took offense to Manypenny’s stated and implied comments about the army and its responsibility for the Grattan massacre. In the first place, Scott pointed out the fact that the Indian Agent referred to by Manypenny was at least eight days away from Fort Laramie when the incident occurred. In the second place, the Intercourse Act and the 1847 Articles of War authorized the post commander to act in the capacity of an Indian Agent when one was not stationed in the vicinity. No Indian Agent, Scott stressed, lived within 600 miles of Fort Laramie. How could timely and effective relations between whites and Indians occur if one had to wait for weeks if not months for an agent to arrive on the scene? The agent assigned to Fort Laramie, Scott retorted, spent but two weeks a year at Laramie. And those two weeks were to distribute the government annuities. Once that annual task was completed, the Indian Agent left the area. In his condemnation of Manypenny, Scott stressed the fact that Congress had created Fort Laramie specifically for protection of emigrants. The army could not be restrained from performing what its government and its people expected it to do because an Indian Agent was not readily available to resolve a threat to emigrants traveling near Fort Laramie. Scott concluded his scathing remarks with one last vitriolic and one exaggerated comment. The army—“whilst having to bear the brunt of the consequences of the mismanagement of others in Indian Affairs—has ever been the friend of the red man and stood between him and the violence &



extortion of the white."<sup>45</sup> As a result of the Commissioner's unfavorable remarks, Scott's disdain for Manypenny was probably as great as that of Davis's. For one of the few moments in their tumultuous relationship together, Davis and Scott were in agreement. They both hated the Commissioner of Indian Affairs. As long as Manypenny served in that capacity, the War Department not only had to fight hostile Indians in the West—it also had to engage the Interior Department in bureaucratic combat in Washington.<sup>46</sup>

By mid-December 1854, it was clear that President Pierce had supported the War Department's plan to chastise the recalcitrant Sioux who had committed the "murder" of Lieutenant Grattan and his detachment. The olive branch of peace would be withheld from the Sioux until they fully complied with the wishes and demands of the United States. For his part, Jefferson Davis was convinced that the massacre was the result of a calculated plan. He believed that the Sioux exploited the weakness of the Fort Laramie garrison and had planned all along to loot the American Fur Company.<sup>47</sup> The military reports he had received coupled with the selected Indian Agent reports he chose to believe seemed to justify his conclusions as well as

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<sup>45</sup> Irwin McDowell to Cooper, 15 December 1854, LRAGO, Roll 498.

<sup>46</sup> Despite his sour relationship with Manypenny, Davis gladly accepted any Indian Agent input that supported his views of Indian affairs. He was reluctant, however, to accept any alternative explanations that did not fit into his understanding of white-Indian relations. For an example of an Indian Agent whose views Davis liked, see Alfred J. Vaughan to Col. Alfred Cummins, 21 November 1854, in Senate Executive Document 22, 33<sup>rd</sup> Cong., 2<sup>nd</sup> Sess., Vol. 6, Serial 751.

<sup>47</sup> SW, *Annual Report* (1854), in Senate Executive Document 1, 33<sup>rd</sup> Cong., 2<sup>nd</sup> sess., Serial 747, 5. Robert Utley argued that Davis's conclusions were erroneous. There was no convincing evidence of a conspiracy by the Sioux to lure the army into an ambush and then sack the American Fur Company. Utley's assessment of Davis's conclusions was undoubtedly correct. But if Davis truly believed that there was some sort of premeditated plan to murder Grattan or even if he wanted others to believe the worst of the Sioux, he could and probably did interpret the available evidence to support his views and recommended actions.

to recommend his course of action. The Indians must be chastised by the army, Davis argued, and the sooner the better if the United States wanted to limit or eliminate the Sioux threat to American emigrants and mail trains as well as protect the strategic lines of communication to the West. The Chief Executive seemed to agree with Davis's hard-line approach. "The recurrence of such scenes [Grattan massacre] can only be prevented," Pierce observed in his 1854 State of the Union address, "by teaching these wild tribes the power of and their responsibility to the United States."<sup>48</sup> The army was the obvious means Pierce planned to use to teach the Sioux the "power" of the United States. But it would be over nine months before that power could make an impression on the Brules or any other Sioux bands associated with the massacre.

Shortly after the President's speech, Davis provided General Scott with the fundamental objective of the campaign. The Secretary expected General Harney to lead the expedition "for the purpose of punishing the Sioux Indians, who were implicated in the murder of Lieutenant Grattan's party, and in the various other murders and depredations committed by them during the past year." To accomplish this objective, Davis designated the units Harney could use to chastise the Sioux. Most of the companies were already in the Department of the West. Four companies and an artillery battery from Fort Leavenworth, two from Fort Riley and six from Jefferson Barracks constituted the bulk of available forces for the expedition. Davis also identified four companies of the 6<sup>th</sup> Infantry at Carlisle Barracks in Pennsylvania

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<sup>48</sup> "Second Annual Address," 4 December 1854 in Richardson, *Messages and Papers*, 286.

for use as well. The total manpower designated amounted to 1,200 troops, or about ten percent of the entire army. Prior to Harney's return from Europe, Davis expected Scott to issue confidential orders to the identified forces ensuring they were properly instructed and drilled in long-range weapons. An order had already been issued for the quartermaster to supply the expedition troops with an ample supply of long-range rifles.<sup>49</sup>

By 22 March 1855, the basic operations plan for the Sioux expedition had been completed. Davis instructed Scott to place all of the forces identified in December under Harney's direct command. The Secretary also informed Scott that Harney would report directly to the Commanding General. From Davis's perspective, this command structure made sense. Since General Harney's command included elements from two different military departments, it was logical to have General Scott as the higher headquarters in lieu of the more proximate Department of the West headquarters in St Louis. General Clarke, however, was peeved. Not only was he the departmental commander, he was also the commanding officer of the 6<sup>th</sup> Infantry of which Davis had detailed six of his companies for the expedition. As Colonel of the 6<sup>th</sup> Infantry, Davis's operational order placed him under Harney's command.<sup>50</sup> But as departmental commander, Clarke served in his brevet rank of Brigadier General. Moreover, General Clarke had served in that capacity longer than had Harney. As Harney's senior by brevet, Clarke was reluctant to subordinate his

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<sup>49</sup> Cooper to Scott, 11 December 1854, LSAGO, Roll 18. Of the sixteen companies identified by Davis, only four were dragoons. The rest were all infantry.

<sup>50</sup> W. Freeman to Scott, 12 June 1855, LSAGO, Roll 18.

command prerogatives to a junior officer. The understandable tension between the two officers could have complicated Department of the West support for the campaign effort. Fortunately, for the sake of the overall military and political objectives, Clarke reluctantly suppressed his pride. Scott would later reassure Clarke that Harney's expedition was still subject to his departmental authority as long as it operated within the Department of the West's area of responsibility.<sup>51</sup> In reality, however, the Sioux expedition functioned as an independent command within Clarke's area of responsibility. Support from the departmental commander, however, was essential to Harney's efforts. Without the logistical support of the quartermaster and the subsistence officer's contributions and the manpower from Leavenworth, Riley, and Laramie, the expedition might never have happened.

In his final instructions to General Harney, Davis reiterated the purpose or objective for the Sioux expedition. "The object," Davis stated, "is to operate against the hostile Sioux Indians, in addition to which there will be devolved upon you the duty of protecting from Indian hostilities the Western frontier of Nebraska, and Kansas, and the emigrant routes leading from the Missouri river to the West."<sup>52</sup> Harney, in other words, was expected to accomplish what the American people and its government had always expected the army to do since its creation: punish and subjugate the guilty [the Brule and Miniconjous Sioux in this case]; restore order along the Oregon Trail; and provide security for emigrants.

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<sup>51</sup> Cooper to Scott, 22 March 1855, LAGO, Roll 518.

<sup>52</sup> Cooper to Harney, 22 March 1855, LAGO, Roll 518.

But how would Harney know when he had accomplished his mission? What metrics would identify a successful expedition? What “better state of peace” would exist when military operations were completed?<sup>53</sup> Although Harney had little involvement in the number and types of troops he was given, Davis granted Harney enormous leeway in how he chose to use those forces. Once the expedition had assembled and began its march towards Sioux territory, Harney would not be able to communicate with Scott or Davis in a timely manner. The communications infrastructure west of Fort Leavenworth simply would not allow for that possibility. In lieu of direct communications, Davis had given Harney his mission intent. He also gave him the troops the War Department felt sufficient to accomplish the stated objectives. And lastly, the War Department provided the anticipated logistical support needed to complete a successful campaign. What Davis did not do was tell Harney how he had to use his forces. “The particular plan of operations must of course be directed and modified by circumstances as they develop themselves—this is left to your judgment—and it is designed in this communication only to indicate a general plan of operations and the means that will be placed at your disposal to bring those operations to a successful issue.”<sup>54</sup>

In sum, the Sioux Expedition was Harney’s to command as he saw fit. He would not receive conflicting guidance from Washington or New York on how to conduct the peace enforcement operations and when to use his troops. In essence, Davis trusted Harney and his good judgment to accomplish the government’s

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<sup>53</sup> Sir Basil Liddell-Hart, quoted in Drew and Snow, *Eagle’s Talons*, vii.

<sup>54</sup> Cooper to Harney, 22 March 1855, LLAGO, Roll 518.

objectives. And if anyone could pacify the Sioux and restore peace, order, and security to the central and northern plains, it was William S. Harney and his supporting cast of over 1,200 soldiers.

Since Harney had to operate against a possible force of up to 7,000 Sioux warriors across 90,000 square miles, "it is obvious," Davis remarked, "that operations against them, to be successful, should be so combined as to prevent the escape of the Indians, and bring on a decisive engagement before they have separated into small parties."<sup>55</sup> Davis, like most West Point graduates, was looking to eradicate the Sioux threat in one decisive battle. Success, in Davis's mind, depended on the near total destruction of the Sioux nations' military capability. Whether Davis intended for Harney to achieve this decisive engagement in a pitched battle where the combatants were clearly identified or whether the Secretary left it up to Harney to destroy the Sioux's military potential through destruction of the Sioux people by any and all means available was unclear. As long as the Sioux no longer posed a threat to American security in the trans-Missouri West and as long as emigrants and mail trains passed through the plains unmolested, Davis probably did not care how Harney achieved his objectives.

Once the Scott's headquarters finalized and approved the orders for the Sioux expedition, they were distributed to the affected commands. Those orders, however, also found their way into the nation's newspapers as well. Davis had intended to keep planned operations against the Sioux a secret since his decision to send a force

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<sup>55</sup> Cooper to Harney, 22 March 1855, LLAGO, Roll 518. Davis's final estimate is much higher than what either Winship or Hoffman had identified in their intelligence estimates.

against the Sioux in October. If he had wanted to maintain operational security of the mission until it was underway, his objective failed. The St Louis *Republican* had covered the Grattan affair since it first received telegraphic notification of the tragedy on 10 September 1854. The paper kept its readers informed of every government or military action associated with the massacre. On 28 March, the *Republican* announced the formation of an expedition of 4,000 men to chastise the Sioux in the western plains. Although the article overestimated the number of troops involved, it captured the essence of the army's upcoming mission. On 7 April 1855, the *Republican* made no such errors. It published verbatim General Orders, No. 2, 28 March 1855 and the HQ Sioux Expedition, Order No. 1, 3 April 1855.<sup>56</sup> These orders detailed the expedition's entire order of battle identifying exactly which units would participate in the expedition and where they came from. General Harney's orders also provided information regarding the estimated time the campaign was expected to last. Although these orders did not state when the expedition would begin, it was known that the army would not launch an expedition into hostile territory once the weather became too harsh or when water or overland transportation means became impassable. Spring was the preferred timeframe to begin large-scale troop movements. But Harney's command was not prepared to begin operations in either April or May. As spring became summer, many began to wonder if the anticipated expedition would ever begin at all. The longer Harney waited to march the more unlikely it became that the Sioux would be properly punished in 1855.

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<sup>56</sup> "Great Military Expedition to the Plains," St Louis *Republican*, 28 March 1855, 2 and "Sioux Expedition," St Louis *Republican*, 7 April 1855, 2.

Could the government afford to wait another year before chastising the Sioux?

Would the government allow the rampaging Sioux another year to pillage and disrupt emigration and commerce across the Oregon Trail?

If the army did not begin operations soon, the *Republican* argued, such a delayed response to the Grattan massacre and other depredations since then "will doubtless convince our red neighbors of our inability to chastise them, and embolden them to fresh outrages."<sup>57</sup> Whether Pierce and Davis agreed with the *Republican's* concern or not, the War Department had ordered Harney to initiate operations on 3 July 1855 despite the lateness of the traditional campaigning season. Davis told Harney not to worry about his initial guidance to commence operations in the spring. Reemphasizing Harney's independence in conducting military operations, Davis reminded the expedition commander that "the Department [of War] cannot at this distance pretend to enter into the details of these operations—they must necessarily be left to the judgment and discretion of the commander of the expedition."<sup>58</sup> The existing communications infrastructure precluded interference from Washington once the expedition left Fort Leavenworth. With Davis's encouragement, Harney and about 600 infantry and cavalry supported by an artillery battery departed for Fort Kearney on 4 August en route for Sioux territory.<sup>59</sup> His force arrived at Fort Kearney on 20 August. Four days later Harney led his troops up the Platte and into hostile

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<sup>57</sup> "The Sioux Expedition," *St Louis Republican*, 2 June 1855, 2. Ironically, Indian depredations continued even after the peace enforcement operation against the Sioux in 1855. See Smith to Cooper, 10 September 1856, LAGO, Roll 552. Smith discussed Cheyenne attacks against mail trains and Mormon emigrants.

<sup>58</sup> Cooper to Harney, 3 July 1855, LSAGO, Roll 18.

<sup>59</sup> Adams, *Harney*, 128.



territory. As they marched, Harney expressed his intentions to his troops when he declared, "By God, I'm for battle—not peace."<sup>60</sup>

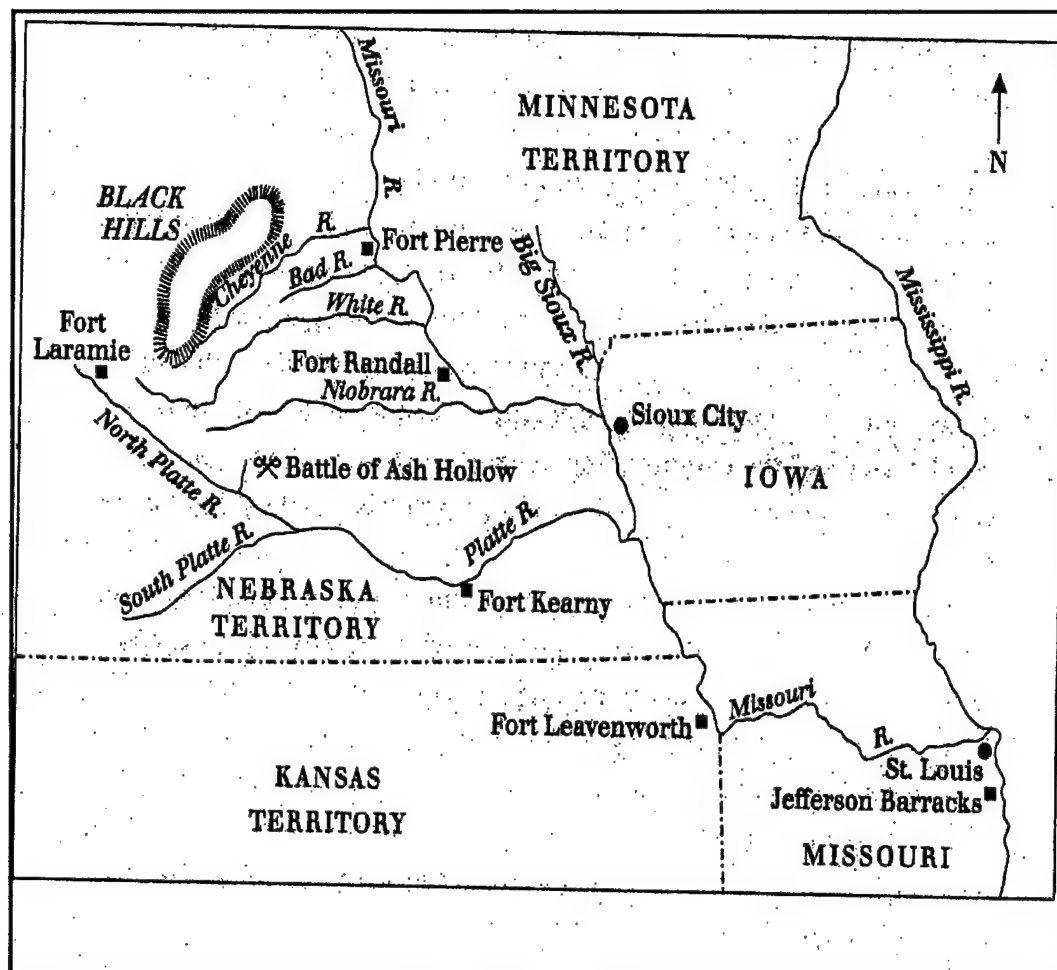


Figure 2, Sioux Expedition Area of Operations, 1855<sup>61</sup>

As Harney's column lumbered up the Platte river valley enduring the summer heat, they had no guarantees that they would be able to locate, fix, and destroy or rather punish the Lakota implicated in the Grattan affair. The Brules and their Sioux allies could be any where within the 90,000 square mile area the War Department

<sup>60</sup> Garver, "The Role of the United States Army," 652.

<sup>61</sup> See Adams, *Harney*, 123.

assigned to Harney. Locating the Brule would be the most challenging aspect of the entire campaign. Once located, it was then only a matter of approach and employing the proper tactics to achieve a decisive engagement.

If Harney had read the 26 June 1855 copy of the *St Louis Republican* before he left Fort Leavenworth, he might have had some reliable insight into where he could find a large concentration of Sioux warriors. The *Republican* correspondent reported information he had received regarding the movement of Indians from Fort Pierre. Most of the Sioux warriors, the correspondent reported, had left the Fort Pierre region. It was believed that they were concentrating at Ash Hollow, a strategic point along the Oregon Trail near Blue Water creek and the North Platte River.

Why the Sioux were congregating there, the correspondent was uncertain. Some said it was for peaceful purposes, others believed that it was an excellent location to pillage emigrants traversing the Oregon Trail.<sup>62</sup> More than likely, the large numbers of Sioux that had departed for the Platte River valley region and the other indigenous peoples that gathered along the Platte did so in response to their new Indian Agent's request to assemble there. Thomas S. Twiss had replaced John Whitfield, future Kansas delegate to Congress, as the Indian Agent for the Upper Platte. He had arrived at Fort Laramie while Harney and his forces lumbered up the Platte River valley. Twiss's personal investigation of the alleged Sioux depredations following the Grattan massacre falsely cleared the Brules and Ogalalas of any

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<sup>62</sup> "From Kansas," *St Louis Republican*, 26 June 1855, 2.

wrongdoing.<sup>63</sup> In an apparent effort to aid the peace process, Twiss proclaimed the North Platte River as a boundary by which the United States government could discern friendly Indian nations from hostile ones. Some 4,000 Indians in all responded to Twiss's pronouncement and many moved south of the Platte to indicate their friendly intentions.

Most of the Brule, Miniconjous, and some of the Ogalalas, however, stayed north of the river. Once again the lack of coordination between Indian Agents and the army resulted in a deadly outcome. It was uncertain if or when Harney knew of Twiss's peace initiative. Regardless, Twiss's action had inadvertently provided Harney and his command with a lucrative target and an opportunity to chastise the Brules. Whatever Twiss's ultimate intentions might have been, the gathering of large numbers of Sioux south of the Platte helped isolate those that remained to the north of the river. Large bands of Brule, Miniconjous, and Oglalas had established a camp at Ash Hollow on the "hostile" side of the river. The isolated camp presented Harney the opportunity he desired. He could now achieve a quick and decisive military victory over those Sioux bands the government held responsible for the Grattan massacre.

On 2 September 1855, Harney and his column of troops arrived in the vicinity of Ash Hollow. They camped just south of the North Platte River. Although the

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<sup>63</sup> Utley, *Frontiersmen in Blue*, 115-116. Apparently, Agent Twiss's peaceful intent towards the Brules and Ogalalas was aimed more for pecuniary gain than from any sincere desire to peaceably resolve the Grattan affair. See Utley, *Frontiersmen in Blue*, 118-119 for more information on Twiss's "profiteering" activities. Twiss could only profit from peacetime activities with the Sioux. If and when any of the Sioux bands fought against the army, the federal government normally imposed a trade embargo with the belligerent bands. As their Indian Agent, Twiss would have little opportunity to make money on the side if trade with the tribes under his jurisdiction was forbidden.

Brule probably knew of Harney's camp, they remained in their lodges and inexplicably made no attempt to escape. Early the following morning, Harney began his assault on the Sioux encampment. He split his forces into two elements. The first moved towards the Sioux camp in anticipation of a frontal assault on the sleeping Indians. Meanwhile, a cavalry detachment under command of Lieutenant Colonel Phillip St George Cooke had positioned itself near the only escape route available to the Sioux camp. Responding to the troops approaching the lodges from the front, the Brule leader, Little Thunder, tried to stop the assault under cover of a white flag. Refusing to submit to Harney's demands for the surrender of those responsible for Grattan's murder and those responsible for subsequent depredations against whites, Little Thunder returned to his people to face the impending assault.<sup>64</sup>

The first gunshots sparked chaos in the Brules camp. As men, women, and children sought safety amid the confusion by running away from the advancing troops, Cooke's cavalry cut off their retreat from his concealed position north of the camps. When the "battle" finally ended, some eighty-six Sioux and four soldiers had perished in the assault and subsequent chase by Cooke's dragoons. Harney's men had also captured some seventy Sioux women and children and he held them as prisoners. Those prisoners served as leverage for two purposes: first, to keep the hostile Sioux bands in line and, secondly, as an incentive for any future negotiations

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<sup>64</sup> D.C. Beam, "Reminiscences of Early Days in Nebraska," Transactions and Reports of the Nebraska State Historical Society, Vol 3 (Fremont, NE: Hammond Bros Printers, 1892), 301; Utley, *Frontiersmen in Blue*, 116; Adams, *Harney*, 131 and Garver, "The Role of the United States Army, 653.

between the United States and the Brule, Ogalalas, and Miniconjous.<sup>65</sup> The military engagement may not have been as decisive as Harney would have liked, but the General thought it satisfied the government's broad military objective to punish those held responsible for the Grattan massacre.<sup>66</sup> The Brule, Miniconjous, and Ogalalas present at Ash Hollow had indeed felt the power of the United States government, as President Pierce had demanded in his earlier "State of the Union" address. The army had also proven that "it could conduct effective offensive operations against particular groups of native people."<sup>67</sup> It was now time for Harney to take his message to other regions occupied by members of the Sioux nation.

Harney remained in the vicinity of Ash Hollow for several days. Burying his dead, but leaving the slain Indians unburied, his troops eventually constructed what Harney would call Fort Grattan. He left a company of the 6<sup>th</sup> Infantry at the makeshift fort to protect the Oregon Trail and the emigrants that passed through Ash Hollow. On 9 September, he departed with the bulk of his command for Fort Laramie. A small contingent left for Fort Kearney with the seventy prisoners captured during the assault.<sup>68</sup> As a result of his need to garrison Fort Grattan and escort the captives to Fort Kearney, Harney's command was reduced. Uncertain of the impact of his attack on the Sioux, he soon learned that his victory had a greater influence on his overall peace enforcement operation than he could have imagined.

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<sup>65</sup> Utley, *Frontiersmen in Blue*, 116-117.

<sup>66</sup> See "Army Affairs," *St Louis Republican*, 10 January 1856, 1. Jefferson Davis certainly felt that Harney had accomplished all objectives against the Brule for their part in the massacre and all subsequent "depredations" against white emigrants and mail contractors.

<sup>67</sup> Adams, *Harney*, 133.

<sup>68</sup> Utley, *Frontiersmen in Blue*, 117.

Word of the attack spread quickly throughout the assembled Sioux bands that had camped south of the Platte in compliance with Twiss's orders. Harney made it a point to pass through these areas as he marched westward en route to Fort Laramie.

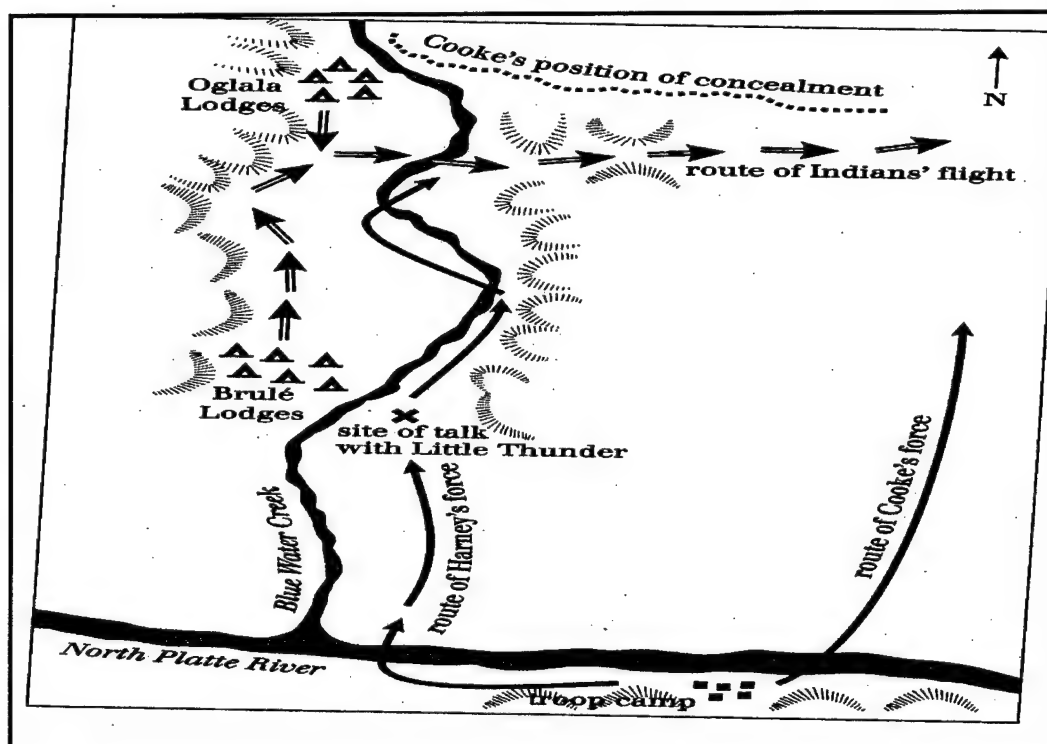


Figure 3, Ash Hollow, September 1855<sup>69</sup>

General Harney was probably surprised by the scope of the impact of his attack. By the time he reached Fort Laramie on 15 September, several Lakota bands had already sent representatives to the fort in an effort to proclaim their friendship and desires for peace with the whites. At a council with some of the Brule and Ogalalas representatives, Harney remained cool to their overtures. He stood firm in his demand that the perpetrators of the mail robberies that followed the Grattan massacre would have to be surrendered if there was to be peace. Harney also

<sup>69</sup> See Adams, *Harney*, 130

demanded the "return of all animals stolen from whites." And lastly, he stipulated that all friendly Indians had to remain south of the Platte River in accordance with Twiss's earlier guidance.<sup>70</sup> In addition to those requirements levied on the Sioux, Harney also ordered all trade be conducted near military installations.<sup>71</sup> These actions allowed the army to control the sale of arms and munitions by keeping the trade within visual range, preventing the Sioux's acquisition of war-related materials. Within two weeks of Ash Hollow, Harney had effectively chastised the Sioux with military power, intimidated those friendly Indians south of the Platte with a show of force operation, and launched an effective form of economic warfare by restraining the actions of traders. The combination of these actions served as the basis for Harney's overall peace enforcement initiative.

Once Harney had articulated his demands for peace to the Brules and Ogalalas residing near Fort Laramie, the General felt compelled to continue his punitive expedition into the heart of Sioux country. Evidently, Harney was not satisfied that his actions along Blue Water Creek were sufficient to stop all of the depredations against emigrants. His earlier experiences in Texas and Florida undoubtedly caused him to remain skeptical about obtaining peace after only one military encounter with the Sioux. Should the Lakota bands disperse and begin to conduct guerilla type operations against the army, Harney knew it would be virtually impossible to pacify

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<sup>70</sup> Adams, *Harney*, 134. See also "Later from Fort Laramie," *St Louis Republican*, 25 October 1855, 2.

<sup>71</sup> Davis approved Harney's actions regarding the traders via letter. See, Cooper to Harney, 6 November 1855, LSAGO, Roll 18. Obviously, Harney did not wait for a reply from Washington to implement his orders. He tried to keep Washington and New York informed of his major decisions and about controversial issues, but for the most part he remained focused on his primary objective of enforcing the peace on the plains.

the region for the foreseeable future. The troops under his command were adequate for conventional battles or attacks on sleeping encampments, but woefully unprepared for the guerilla warfare Harney had experienced in Florida and Texas.<sup>72</sup> With over 90,000 square miles of rugged terrain to pacify and control, the Lakota could have effectively tied up his troops for years. With momentum on his side, Harney believed the time was right to continue the expedition into the Lakota heartland before they could mount any sort of coordinated defense.

Although September was almost over and winter loomed on the horizon, Harney decided to continue his peace enforcement mission by marching his expeditionary forces from Fort Laramie to Fort Pierre. He left on 19 September with just over 425 troops, or about 70 percent of his original force.<sup>73</sup> The combined Sioux threat after Ash Hollow was still formidable. On the high side of intelligence estimates, Harney was outnumbered 16 to 1. Even with Hoffman's more conservative estimates, he was outmanned 9 to 1. Nonetheless, Harney pressed on. Harney arrived at Fort Pierre on 20 October 1855 without seeing a solitary Indian—a significant indication that his campaign to instill fear into the Lakota was successful.<sup>74</sup> Once at Pierre, the Sioux expedition established its winter quarters in conjunction with the other troops that had been deployed there as reinforcements. After his arrival, Harney reflected on what he had accomplished. He had chastised some of the Sioux bands responsible for the Grattan massacre. He had intimidated

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<sup>72</sup> Adams, *Harney*, 137.

<sup>73</sup> Adams, *Harney*, 135.

<sup>74</sup> Utley, *Frontiersmen in Blue*, 118,



most of the rest with his military prowess and determination. But Harney had not yet completed his mission. Not until the bulk of the Lakota had agreed to his conditions and signed an agreement promising to fulfill those obligations would the Sioux expedition be concluded.

Harney had first asked for guidance on peace terms prior to his departure from Fort Leavenworth on 4 August. The War Department did not respond until 10 October. In his direction to Harney, Secretary Davis gave the expedition commander *carte blanche* in determining when hostilities between the United States and the Sioux had ceased. This authority allowed Harney to resolve the mission more expeditiously since he did have to wait for Washington—which would take months—to declare the end of hostilities. Once Harney had made that decision, Davis instructed the General to hold a convention with the submissive bands to determine their “usual place of residence.” Davis also allowed Harney to determine the conditions necessary to ensure “a peaceful compliance with their [the Sioux bands] obligations.” Harney was authorized to hold hostages if necessary to keep the peace with the more unruly tribes. Lastly, Davis told Harney to remind the Sioux that his convention with them was “preliminary to a treaty to be made with them by the Department having charge of Indian affairs.”<sup>75</sup> Davis had recognized the War department’s statutory limitation when it came to treaty making. The Interior Department—not the War or State Department—was responsible for making treaties with Indian nations. Somehow Harney overlooked this stipulation when he called for a council of the major Lakota

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<sup>75</sup> Cooper to Harney, 10 October 1855, LSAGO, Roll 18.

bands to convene on 1 March 1856 to negotiate a peace treaty.<sup>76</sup> Inexplicably, neither Harney nor Davis took it upon himself to notify the Interior Department of their peace making intentions.

Failure to coordinate the treaty council at Fort Pierre with the Interior Department was not to sole sin of the War Department, but it was one of the least pardonable. But in coordination on Indian affairs, the Interior Department's Indian Agents were just as culpable as their uniformed counterparts. Five days after Harney arrived at Fort Pierre, the three Brules who had robbed a mail train bound for Salt Lake City turned surrendered themselves to Agent Twiss at Fort Laramie in accordance with Harney's earlier peace edict to Little Thunder.<sup>77</sup> Having met Harney's demands, Twiss decided, without conferring with the local commander, to restore full trading privileges. Hoffman notified Harney of Twiss's actions but it would not be until February 1856 that Harney responded to Twiss's pronouncement.

Further complicating relations between Twiss and Harney was the Indian Agent's attempt to disrupt Harney's peace council at Fort Pierre. Several Brule and Ogalalas who received invitations to the council asked Twiss if they should attend. Agent Twiss did not forbid them from going but he did try to delay their departure for Fort Pierre. He wrote a letter to Harney asking if it was necessary for the Brule and

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<sup>76</sup> Garver, "The Role of the United States Army," 655.

<sup>77</sup> Utley, *Frontiersmen in Blue*, 118. Utley stated that the Brules turned themselves in on 25 October. Cf. George Adams said that they surrendered on 18 October. Adams, *Harney*, 137. The three Brules were Spotted Tail, Red Leaf, and Long Chin. I have used Utley's date since he had a footnote to support his claim. Adams paragraph that dealt with the Brule surrender was not footnoted. Fortunately, the date was inconsequential to this dissertation's narrative. LTC Hoffman stated that the three Brules were given to him on 28 October. He told Harney that he would send them to Fort Leavenworth on 29 October for incarceration. See, Hoffman to Winship, 4 November 1855, LLAGO, Roll 538.

Ogalalas to send representatives to Pierre since the perpetrators of the mail robbery were in custody.<sup>78</sup>

Twiss's letter and Hoffman's report of the Agent's activities reached Harney in February. The General was furious at Twiss's unabashed interference in the peace process and with Twiss's manipulation of his peace demands with the Brules to renew trade. Harney ordered Hoffman to place Twiss under house arrest and prevent him from communicating with the Sioux. He later suspended Twiss from his duties as Indian Agent. Harney had no authority to do so, but he did have the power to keep Twiss under guard. Twiss's actions exacerbated tensions between the Indian Bureau and the army. And Harney's actions regarding Agent Twiss did not help relations between himself or the War Department and the Interior Department.<sup>79</sup> Harney could intimidate the Sioux with his military prowess, but the Interior Department as a whole was seemingly immune. The military campaign for peace with the Sioux was

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<sup>78</sup> Twiss to Harney, 16 December 1855, LAGO, Roll 538. See also Harney to Thomas, 21 November 1855, LAGO, Roll 518 and Hoffman to Captain Alfred Pleasonton, 11 February 1856, LAGO, Roll 518.

<sup>79</sup> Hoffman to Pleasonton, 9 February 1856, LAGO, Roll 538 and Pleasonton to Hoffman, 19 February and 6 March 1856, LAGO, Roll 538. See also, Adams, *Harney*, 137-138 and Harney to Davis, 8 March 1856, in House Executive Document 130, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 12, serial 859. Twiss was not the only Indian Agent to interfere with Harney's expedition. The Delaware Agent, B.F. Robinson had discouraged the Delaware from participating in the Sioux expedition as guides and scouts without express permission from the President. Robinson hinted that the Delaware might sacrifice their annuity in lieu of compensation from the army for services as guides against the Sioux. Robinson felt that it was inappropriate to hire the Delaware to wage war or peace against the Sioux. He hoped to improve relations between the Delaware and Sioux. Using the Delaware as army scouts would not make improved relations any easier. Harney, on the other hand, desired the use of the Delaware and other eastern Kansas Indians because of their renowned guiding and scouting abilities. It was essentially standard operating procedure to hire Indian scouts for such occasions. Although both departments had the same end state in mind, they had distinctly different strategies and tactics regarding the means employed. The lack of coordination and the unwillingness of Pierce to choose one approach over the other hindered the overall peace process. For more on the guide issue, see, Cooper to Harney, 5 December 1855, LSAGO, Roll 18; Captain Henry Heth to Pleasonton, 17 April 1856, LAGO, Roll 538; Harney to Cooper, 9 May 1856, LAGO, Roll 538.

relatively easy compared to the bureaucratic battle waged between the War and Interior departments over each entity's overlapping kingdoms.

### **Peacemaking**

As Harney and his command suffered through the long, cold Dakota winter, the War Department made plans for the Sioux expedition to renew combat operations in the spring. Harney was to receive more troops before continuing his peace enforcement operations.<sup>80</sup> Evidently the Commanding General and the War Department were not yet satisfied that Harney had accomplished all of the mission's objectives. As Scott and Davis coordinated their plans in February, Harney began receiving representatives from most of the ten Lakota bands. By late February, thousands of Sioux had arrived at Fort Pierre in preparation for the opening of the 1 March peace council. As bad as the winter had been for Harney and his men, the conditions under which those who made the trip to Pierre in the dead of winter had to have been much worse. The Sioux's desire for peace was apparent to all.

When the council began, all bands of the Lakota were represented with the exception of some elements of the Yanktonnais and the Ogalalas that had been delayed by Agent Twiss's machinations.<sup>81</sup> Prior to the meeting, Harney had notified the War Department on 10 November of his intent to conclude a peace with the Sioux nations. He had enclosed a draft "projet of a treaty" he had penned that would "assure the peace of the frontier and the security of the emigrant routes leading

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<sup>80</sup> Cooper to Scott, 1 February 1856, LSAGO, Roll 18.

<sup>81</sup> See Senate Executive Document 94, 34<sup>th</sup> Cong., 1st sess., serial 823 for documents related to the council at Fort Pierre.

through [Sioux] country” for departmental review and approval. In his letter to Davis, Harney informed the Secretary that several of the “offending bands” were “broken and dispirited” and that those bands had actively sought peace and clemency from the government. Davis responded to Harney’s draft treaty on 26 December. Based on Harney’s assessment and upon the president’s desire to avoid further bloodshed, Pierce authorized Harney to “make a convention or treaty for the restoration of friendly relations with such of the chiefs and headmen of the respective tribes of the Sioux as may be duly empowered to act with you.”<sup>82</sup>

With the blessing of the President and the Secretary of War, Harney convened the peace council on schedule. The United States government’s three basic demands remained unchanged. The first condition for peace required that “all Indians who have committed murders or other outrages upon white persons shall be delivered up for trial to the commander of the nearest military installation.” This requirement kept the guilty parties under control of the War Department.

The second provision mandated the return of all stolen property to the nearest military installation. This demand placed responsibility for the return of stolen goods on the chiefs of each band and reinforced Harney’s objective of making the military post the focal point of all future relations with the Sioux. If the army suspected a particular band of holding back stolen goods, the government would hold the designated chief responsible. This stipulation was a blatant effort to implant a centralized political system on a culture that had existed for centuries on a

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<sup>82</sup> Davis to Harney, 26 December 1855, House Executive Document 130, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., vol 12, serial 859, 4.

decentralized political structure. The government's last stipulation dealt with protection of the roads that passed through Indian territory. The United States expected all Sioux signatories to respect the freedom of movement of all emigrants who used those roads. There would be no more harassment or robbery of travelers or of mail contractors. Furthermore, the Sioux were expected to "extend protection to all [authorized] whites found in their country." Should any Indian individual, group, or band violate the sanctity of the roads, they would be held accountable. If one band violated this stipulation, all of the others were expected to isolate that band. The treaty abiding Sioux bands would have no intercourse with the guilty party and they must not provide any assistance or encouragement to those that violated this treaty condition.

Harney's demand for permanent peace, however, required absolute control and accountability. In addition to the official demands, Harney added six more requirements. Concerning the return of stolen property, Harney added that the items had to be returned immediately by the chief of the band that committed the crime to the nearest military post. The individual or persons who committed the larceny were to be delivered as well.<sup>83</sup>

Harney's second and third addendums were probably the most difficult for any Sioux or any indigenous people to accept. He stated that all of the designated chiefs "must compel their bands to obey them." If a particular chief could not

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<sup>83</sup> Davis to Harney, 26 December 1855, House Executive Document 130, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 12, serial 859, 15.

maintain compliance, the army would provide military assistance.<sup>84</sup> Harney desperately wanted a single point mechanism to maintain positive control over each band. In effect, he desired to recreate the Lakota's political and military structure into an organization that paralleled that of the army. Harney insisted that the Sioux adopt a hierarchical system of government where the head chief had absolute control over his people and where the head chief was solely accountable to the army for the actions of his people. Undoubtedly Harney's desire to reorganize Sioux political structure reflected his understanding of what was necessary to guarantee his notion of peace on the plains. Unfortunately, it also reflected a lack of understanding on Harney's part concerning the nuances of Sioux political society and culture. Had Harney or any other influential government official heeded Major Winship's earlier assessment of the truly democratic nature of plain's Indian society, he might have opted for a less disruptive means to achieve his objective of positive control.

A further complication of Harney's imposed political order was the manner by which chiefs were selected and approved. Harney allowed each band to select its own head chief and sub-chiefs, but they were subject to his approval. Once they were selected and approved, only the United States government could authorize a change in leadership. While this process made it easier for the government to control the Sioux, it was an alien concept to the Lakota. Leaders in indigenous societies were generally not chosen or elected as they were in American society. They emerged from within a society based on circumstances unique to a particular band. A peace

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<sup>84</sup> Davis to Harney, 26 December 1855, House Executive Document 130, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 12, serial 859, 15.

“chief” might serve in that capacity for months or years, but he would not normally be the individual who would lead their warriors into battle. A war chief would orchestrate any military activities based on the needs of the band or even smaller elements within the band. Other members of a band performed a variety of leadership functions as well, whether they were physical or metaphysical. Moreover, leadership within a band was subject to more than just majority rule. Clan membership, for example, might have a greater influence on who served as a leader than age or experience. Regardless of the complexities of Sioux political culture, it was clear that Harney had little appreciation of that culture when he made his demands to alter the decentralized nature of the Sioux’s political traditions.<sup>85</sup>

Harney’s other requirements also demonstrated a lack of understanding or of sensitivity to Native American culture. His fourth demand required the Sioux to make peace with the Pawnee. Ostensibly this would appear to be a desired objective of both the Sioux and the United States. But the Pawnee were traditional enemies of the Sioux. The command to cease fighting the Pawnee would be difficult to obey given the animosity between the two peoples. From the American perspective, however, peace between the Sioux and Pawnee was greatly desired. Since a great portion of the conflict occurred in the vicinity of the Platte River valley, peace between the two peoples would aid in the protection of the Oregon Trail and other

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<sup>85</sup> For more on Native American leadership issues and political and military concerns, see R. David Edmunds, ed., *American Indian Leaders*, (Lincoln: University of Nebraska Press); Armstrong Starkey, *European and Native American Warfare, 1675-1815*, (Norman: University of Oklahoma Press); and Ian K. Steele, *Warpaths: Invasions of North America* (New York: Oxford University Press). For a more detailed assessment of the dilemmas faced by Native American leaders see, Donald Jackson, ed., *Black Hawk, An Autobiography* (University of Illinois Press).



key trans-west transportation routes. Moreover, if the Sioux made peace, the United States would demand that the Cheyennes and Arapahoes do the same. Should the Sioux violate this edict, Harney promised retribution against the violators or the entire band responsible for disrupting the peace.<sup>86</sup>

Two of the last requirements levied upon the Sioux in the peace convention were "suggestions." Both required the Sioux to alter some of the basic fundamental characteristics of their culture. "To save the necessity of killing so many buffalo, which will soon be killed off, the general recommends to the Indians to raise stock and to cultivate the soil, raise corn, pumpkins, &c."<sup>87</sup> Harney and the government wanted to ensure continued peace between the Sioux and the American people by making the Sioux more like them. If the majority of the Sioux became farmers, they could live like Americans in harmony and amity. To Harney and most government official, farming or an agriculture based economy provided the fundamental means toward civilizing the Sioux or any other indigenous peoples who lived within the boundaries of the United States. Farming would instill American values such as hard work and encourage the Sioux to give up their nomadic traditions. If they did so, the Lakota could expect to live in peace with their white neighbors. If not, physical extinction seemed likely.

In sum, what Harney offered to the Sioux as peace amounted to two highly undesirable alternatives. They could choose between ethnocide [peace of cultural

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<sup>86</sup> Harney to Davis, 8 March 1856, House Executive Document 130, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 12, Serial 859, 15.

<sup>87</sup> Davis to Harney, 26 December 1855, House Executive Document 130, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 12, serial 859, 7.

conquest], or genocide, [peace of the dead]. Neither option was appealing. But given the realities of the 1850s, the Lakota, like most of their indigenous brethren, had to make difficult choices. Fearful of Harney's threats of annihilation, starving from economic coercion and reduced bison herds, most of the Lakota chose to live at any cost to their culture or traditions. But most importantly, Harney had—at least temporarily—broken most of the Sioux's will to fight or to resist the hegemony of the United States. Although the Sioux vastly outnumbered Harney's command, the Sioux's potential to wage war remained untapped. Lack of centralized leadership, traditional animosities, and cultural and political imperatives constrained the Lakota from acting as a unified nation. Harney understood those limitations. He also understood his objective. Peace would be obtained regardless of the physical, economic, political, or cultural cost to the Sioux peoples.

In return for their compliance, Harney made three important promises. He first promised physical security. The government and the army would “protect the Sioux from impositions by the whites.” This stipulation further solidified the relationship between the Sioux and the federal government as a ward of the state. Secondly, the suspended annuities would be restored, but with an important caveat. Unlike earlier distributions, all future annuities would be received at the nearest military post. Like his other provisos, Harney wanted to maintain control over every aspect of the Sioux's existence. By distributing goods at a post, the army could monitor those activities and ensure they were above board. The army would no longer need to provide escorts to Indian Agents who had dispersed annuities at

locations convenient either to him or to the Indians. Lastly, as a token of his magnanimity, Harney promised to release all prisoners not implicated in any specific crime once the signatories had surrendered all stolen property and turned over all those individuals implicated in the murders that had occurred since the Grattan massacre. These rewards seemed to pale in comparison with what the Sioux had to give up, but all the bands at Fort Pierre plus the Ogagalas who arrived later agreed to the terms.<sup>88</sup>

From Harney's perspective, peace was at hand. With the exception of Big Hand and his band and some Blackfeet and Oncpapas, all of the Lakota bands had acceded to his peace demands. His mission was complete. All that remained was for the federal government to fund the agreement. That, however, was not as easy as it should or could have been. The Interior Department was still angry at the War Department for its usurpation of its peace making prerogatives. Even though Pierce had personally approved and supported Harney's peace treaty or convention, the Indian Affairs elements of the Interior Department complicated funding by raising the estimated costs of supporting the government's obligations to the Sioux. By the time Indian Bureau estimates reached Secretary Robert McClelland, they had increased from \$62,000 to \$100,000. Congress balked at the costs and did not appropriate moneys for the treaty until 1858 despite the Sioux's compliance with the conditions of the agreement. Although Harney expected to have a single point of contact responsible for each band's actions, the Sioux had no single point to air their

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<sup>88</sup> Davis to Harney, 26 December 1855, House Executive Documents, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 12, serial 859, doc., 130, 7.

grievances with the United States. Why did it take so long for the government to honor its promises? What was deemed good for the red goose was not appropriate for the white gander. The War Department, the Interior Department and the President could make all the promises they wanted to the Sioux or any other domestic dependent nation, but Congress still controlled the money. And without the money to fulfill their promises, neither Harney nor any other official could meet their obligations to the Sioux.

Despite Congress's tardiness, peace between the Sioux and the United States continued until the 1860s. The United States had proven that it had the will and the capability to enforce peace against indigenous peoples through military means. "Harney's success," the General's biographer argued, "rested in part upon his and the War Department's willingness to wage total war—to engage the Indians in battle with little concern for the safety of non-combatants, destroy all their possessions, and demoralize them."<sup>89</sup> Harney's formula for compliance, however, was rather harsh. But despite its harshness, it was effective. Total peace in context of American society in the 1850s, however, demanded total submission on the part of the Sioux. Once the Sioux had been soundly punished at Ash Hollow, Harney could then negotiate, or more accurately dictate, a new peace with the Sioux from a position of military strength. Without the will to resist, it was easy for Harney to convince the starving Sioux to agree. Military coercion, economic sanctions, and an explicit policy of

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<sup>89</sup> Adams, *Harney*, 135.

ethnocide combined to give the American government the means to achieve its ultimate objective of peace on the plains.

## Chapter 4

### Conflicting Interests: Peace, Land, and Speculation in Territorial Kansas, 1854-1856

In the din and strife between the anti-slavery and pro-slavery parties with reference to the condition of the African race there, and in which the rights and interests of the red man have been completely overlooked and disregarded, the good conduct and patient submission of the latter contrast favorably with the disorderly and lawless conduct of many of their white brethren, who, while they have quarreled about the African, have united upon the soil of Kansas in wrong doing toward the Indian.<sup>1</sup>

—George W. Manypenny, *Our Indian Wards*

Inevitably, the economic machinations of some regulars interfered with their professional responsibilities and produced charges of conflict of interest.<sup>2</sup>

—William B. Skelton, *An American Profession of Arms*

The manner in which the army conducted peace enforcement operations against the Sioux in 1855, however, was neither appropriate nor acceptable to the government or the American people when it came to peace operations in territorial Kansas. The use of lethal force to compel American citizens to comply with territorial laws which many free state settlers considered to be bogus was politically and morally unacceptable. The use of force to physically remove squatters from Indian lands was also greatly resented by those who had settled on those lands as well as by those who were charged with enforcing treaties and federal laws protecting those lands. Unlike the scenario where the army conducted peace enforcement

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<sup>1</sup> George W. Manypenny, *Our Indian Wards* (1880; reprint, with a foreword by Henry E. Fritz, New York: Da Capo Press, 1972), 126-127. See also, "Report of the Secretary of the Interior," House Executive Documents, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., ser. 840, 328 and "Report of the Commissioner of Indian Affairs," *St Louis Republican*, 11 January 1856, 3. In his 1855 report to McClelland, Manypenny stated that "many of the emigrants to and all of the emigrants in the Territory of Kansas, are engaged in bitter controversy and strife, as applicable to the condition of the African race; yet the hostile factions seem to have no sympathy for the Red man, but, on the contrary, many of both sides appear to disregard his interest, and trespass upon his rights with impunity." See also Manypenny, *Our Indian Wards*, 125.

<sup>2</sup> Skelton, *An American Profession of Arms*, 208.

operations against the Lakota; peace operations involving Native Americans, white settlers, and the army in eastern Kansas were far more delicate and complex.

Unlike peace enforcement operations against the Lakota, the army did not have to march great distances when it conducted peace operations in Kansas. The indigenous peoples in question resided generally in close proximity to Fort Leavenworth. Moreover, these emigrant Indians were rarely hostile and never posed a significant security threat to the local white population. Years of physical and psychological decimation had rendered these peoples powerless to combat the army or any other vestige of the federal government. But under various treaties and laws in effect in 1854, they were protected peoples. The Interior Department through the Bureau of Indian Affairs (BIA) was responsible for their protection. The War Department was responsible for supporting the BIA in its efforts to protect Indian interests. But the situation in Kansas was more complex and politically sensitive than similar situations that had occurred earlier.

One of the complicating factors was the fact that several army officers assigned to posts in Kansas between 1854 and 1856 engaged in a practice common in the 1850s—land speculation. Like their civilian counterparts these speculating officers hoped to earn extra money by exploiting opportunities in land made available as a result of the Kansas Nebraska Act. Unfortunately, most of the lands identified for settlement were either occupied by emigrant Indians or they were lands given to various tribes in accordance with earlier treaties with the United States. The involvement of army officers in land speculation complicated their professional responsibility to uphold federal laws and treaties that protected Indian lands.

Legally, army officers were obligated to remove illegal settlers from Indian property. But these intruder removal operations on occasion placed land speculating officers in direct conflict with their obligations as professional soldiers. The army had been called on before to remove illegal settlers and protect various indigenous peoples lands, but the Kansas situation was made even more problematical by the on going debate over slavery extension. This impediment was particularly evident in territorial Kansas between 1854 and 1856. Removing illegal squatters from Indian lands was one matter. When there was no personal gain or loss associated with those actions, the army fulfilled its mission. But when an officer's personal pecuniary interests were involved, there was a greater reluctance to enforce treaty stipulations and remove settlers from Indian lands. This conflict of interest between professional obligations and personal gain manifested itself in the early years of territorial Kansas and it had a definitive effect on the conduct of peace operations in eastern Kansas.

One of the leading figures in the conduct of peace operations in Kansas was Jefferson Davis. He had experienced first hand the delicacy of removing white settlers from Indian lands as a young army officer. In October 1831, Colonel Willoughby Morgan, commander of Fort Crawford in the Wisconsin Territory, ordered Davis on a delicate peace enforcement mission. Ongoing trouble between white settlers and miners with members of the Sauk and Fox tribe near the Dubuque lead mining region prompted Colonel Morgan to deploy Lieutenant Davis to the disturbed area. Morgan expected Davis to accomplish two distinct but related objectives. The first was "to protect the settlers and lead miners from hostile



Indians”<sup>3</sup> The second goal was to protect the Sauk and Fox against the intrusions of white settlers in accordance with the terms of an unratified treaty the Sauk and Fox had negotiated with the United States. The second objective required Davis to remove any whites that had established claims on the lands occupied by the Sauk and Fox lying on the west side of the Mississippi River.<sup>4</sup> Under the terms of the treaty, the Indians had agreed to stay west of the Mississippi River in present day Iowa and the whites were to stay on the east side of the river near present-day Galena, Illinois. Unwilling to wait for the treaty process to open the lead mining regions occupied by the Sauk and Fox for legal settlement, white miners had crossed the river and established claims on Indian lands. Davis verified the illegal encroachment once he and his men arrived.<sup>5</sup> In order to protect both the whites and the Sauk and Fox, Davis and his men first had to remove the white intruders from the west side of the river.

But how should the inexperienced, twenty-three year old Davis handle the rough and greedy miners that had crossed the river? Since Davis had the force of law behind him, he could have used his troops to physically remove the illegal trespassers. That option, however, was neither personally nor politically palatable to the young officer.<sup>6</sup> Unwilling or unable to prevent the continued migration of miners

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<sup>3</sup> “Special Order No. 45, Headquarters, 1<sup>st</sup> Infantry, Fort Crawford, 11 October 1831 in *The Papers of Jefferson Davis* Vol 1 1808-1840, edited by Haskell M. Monroe, Jr., and James T McIntosh, (Baton Rouge: Louisiana State University Press, 1991), 215. See also Clement Eaton, *Jefferson Davis* (New York: The Free Press, 1977), 16.

<sup>4</sup> Eaton, *Jefferson Davis*, 16. See also William E. Dodd, *Jefferson Davis* (New York: Russell and Russell, 1966), 35.

<sup>5</sup> Davis to Morgan, 31 October 1831 in *The Papers of Jefferson Davis* Vol 1 1808-1840, edited by Haskell M. Monroe, Jr., and James T McIntosh, (Baton Rouge: Louisiana State University Press, 1991), 217-218. See also, William J. Cooper, Jr., *Jefferson Davis: American* (New York: Alfred A. Knopf, 2000), 46.

<sup>6</sup> Colonel Morgan supported Davis’s restraint. “I shall be loth (sic),” Morgan reported to his superior, “to use force until the proper authority is given by the President.” Morgan also demonstrated his faith in young Davis’s ability to diffuse the tense situation. “I have sent Lieut Davis down with a party

onto Sauk and Fox lands, Davis chose personal diplomacy as his preferred means to accomplish his mission. To stop the illegal mining operations, he first deployed his troops around the mines to protect them from further exploitation. To keep the peace and enforce the treaty stipulations, he convinced the white intruders of the necessity to restrain their movements into Iowa until the treaty process could be completed. "Time and patience," Davis stressed, were the keys to the white settler's ultimate success in making their claims.<sup>7</sup> Davis's appeal to the settler's sense of law and order in conjunction with his show of military force convinced the restless miners to return to Illinois. Lieutenant Davis's willingness to listen to the concerns and grievances of the ambitious settlers coupled with his commitment to protect both whites and the Sauk and Fox resulted in a peaceful resolution of the crisis. Restraint coupled with the minimum use of force was the hallmark of Davis's successful peace operation. He had separated the whites from the Indians without bloodshed. Davis remained in the contested area to ensure the potential belligerents remained apart. Once his mission was complete, he left the area on 26 March 1832. Having successfully kept the peace over the winter, he departed the Dubuque area for a much needed furlough.<sup>8</sup>

Lieutenant Davis left triumphant. He had protected the interests of the Sauk and Fox,

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perhaps his presence may deter from intrusions." See Colonel Willoughby Morgan to Acting Assistant Adjutant General of the Right Wing of the Western Department, 1 November 1831 in *The Papers of Jefferson Davis* Vol 1 1808-1840, edited by Haskell M. Monroe, Jr., and James T McIntosh, (Baton Rouge: Louisiana State University Press, 1991), 220.

<sup>7</sup> Cooper, *Jefferson Davis*, 46. Cooper took Davis's quote from Varina Davis's *Memoir*, I, 86-87.

<sup>8</sup> "Special Order No. 1," Assistant Adjutants generals Office, Western Department, 15 January 1832 in *The Papers of Jefferson Davis* Vol 1 1808-1840, edited by Haskell M. Monroe, Jr., and James T McIntosh, (Baton Rouge: Louisiana State University Press, 1991), 233-234 and "Order No. 65," Headquarters, Fort Crawford, 26 March 1832 in *The Papers of Jefferson Davis* Vol 1 1808-1840, edited by Haskell M. Monroe, Jr., and James T McIntosh, (Baton Rouge: Louisiana State University Press, 1991), 236. See also, Eaton, *Jefferson Davis*, 17. The Black Hawk War began shortly after Davis left and lasted for about fifteen weeks. For more on the Black Hawk War, see Donald Jackson, ed., *Black Hawk* (Champaign: University of Illinois Press, 1955).

protected the miners, and he had removed illegal settlers from the west side of the Mississippi without resorting to physical force and bloodshed.

Twenty-three years later, Jefferson Davis faced a similar challenge. This time, however, Davis was not a green lieutenant following the orders of a superior. He was the Secretary of War. As head of the War Department, he was responsible for the whole of army operations. From punitive peace enforcement operations such as the Sioux expedition to more localized peace enforcement operations such the removal of intruders from Delaware trust lands, Davis and the United States Army were expected to maintain the peace, order, and security of the frontier. And like his earlier experiences with the Sauk and Fox, Davis soon realized that keeping the peace between friendly Indians and the growing numbers of whites in eastern Kansas was indeed a delicate function.

Maintenance of peace in Kansas was made even more fragile by the passage of the Kansas Nebraska Act in May 1854. The passage of the act had served as a profound signal to the American public that the Indian barrier, which had prevented settlement of lands west of Missouri and Iowa, had ostensibly been removed.<sup>9</sup> No longer would that barrier known as the permanent Indian Territory prevent whites from settling on the rich farming lands of eastern Kansas. Unfortunately for all involved, President Pierce signed the act into law without a single acre of land in the newly formed territories being legally available for either white settlement or for pre-

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<sup>9</sup> See Craig Miner and William E. Unrau, *The End of Indian Kansas: A Study of Cultural Revolution, 1854-1871* (Lawrence: University Press of Kansas, 1990), 11-12. Miner and Unrau cite Senator William H. Seward's remark regarding the removal of the red barrier that kept slavery out of what would become Kansas and Nebraska. "I will not say that [locating eighteen tribes in the proposed territory] was done to prevent that territory denied to slavery from being occupied by whites," said William Seward of New York, "but it has that effect."

emption.<sup>10</sup> Treaties with the Delaware, Weas, Ioways, and other “friendly” Indians living in eastern Kansas required a government survey before any land could be made available to settlers or speculators. Moreover, several of the tribes had not ceded all of their treaty lands to the United States. They often kept smaller or diminished reserves for their own use within the original boundaries. The government was obligated to clearly mark the boundaries between the diminished reserves of the Kansas Indians and the lands that were ceded before white settlement could commence.<sup>11</sup>

The parallels between Davis’s peace enforcement mission along the Iowa-Illinois border and the army’s mission in Kansas were significant. Both situations required military intervention to keep the peace. Both required the army to protect friendly Indians and their interests pending treaty negotiations or treaty implementation. Davis was able to resolve the Sauk and Fox issue by convincing would-be settlers that they must obey the law. If they exhibited patience and allowed the treaty process to work, Davis assured the anxious emigrants that time would soon give them what they wanted. The restless settlers from Illinois listened to Davis and returned to the east side of the Mississippi. Once the treaty had been ratified and the

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<sup>10</sup> See “Treaty with the Delawares, 1854,” in Kappler *Indian Affairs. Laws and Treaties*. Vol 2, 615. The treaty called for the survey of ceded lands “as soon as it could be conveniently done.” Once a survey was completed, the Delaware trust lands would be offered up for sale at a public auction. Any unsold lands would be available for private entry after three years. The government’s objective in following this process was to benefit the Delawares monetarily and to encourage the “speedy settlement of the country.” Even some locals noticed the problem of opening the territory before all treaty requirements had been met. “It is a defect in the government,” former Dragoon D.C. Beam observed, “that the most desirable land is not surveyed before opening for settlement.” See D.C. Beam, “Reminiscences of Early Days in Nebraska,” *Transactions and Reports of the Nebraska State Historical Society*, Vol 3 (Fremont, NE: Hammond Bros Printers, 1892), 300.

<sup>11</sup> For more information on the particulars of each treaty see, Kappler, *Indian Affairs. Laws and Treaties*. Vol II.

Sauk and Fox had been removed to their “permanent” home in Kansas, the settlers were able to move onto the land without violating the law and without bloodshed.

The situation between emigrant Indians and impatient settlers and speculators in Kansas, however, was not so easily resolved. The army was still obligated to enforce federal laws and treaties when necessary, but there were other circumstances that complicated the use of military force in the newly-formed territory. The Dubuque lead mines dispute was clearly a contest between resource-hungry settlers who wanted to be the first to exploit the land and Native Americans who wanted to retain what was legally theirs. It was relatively easy for Davis to use troops to enforce the law, protect the Sauk and Fox, and convince the illegal trespassers to return to their side of the river.

The contest over Kansas, on the other hand, was influenced by at least three factors absent from the Dubuque Mines affair. The first and perhaps most important difference was ideological. There was no onslaught of white settlers anxious to get to Iowa—a free state under the Missouri Compromise guidelines—to make it a slave territory or to keep it free from slavery as there was with Kansas. The popular sovereignty solution to the slavery extension debate fueled already heightened emotions associated with laying claim to the best lands in the Kansas. The desire for land regardless of politics would have made peace enforcement difficult. But with the passions and fervor associated with the perceived need to make Kansas either a slave or a free territory, the difficulties faced by the army increased exponentially.

The second factor that influenced the army’s mission in Kansas was the role played by the Interior Department. When Lieutenant Davis conducted his peace

operation in 1832, Indian Affairs belonged almost exclusively to the War Department. There was no competing agency to interfere with army operations associated with Indian issues. After 1849, however, that was no longer true. The Interior Department had assumed control over Indian Affairs. The resulting animosity and bureaucratic jealousy that emerged between the two departments hindered effective government operations designed to protect friendly Indians in Kansas.

Lastly, the speculative behavior and activities of many officers assigned to Fort Leavenworth and Fort Riley further complicated the army's ability to protect friendly Indians or to remove white settlers. Land speculation and pre-emption of choice lots by several officers assigned to both posts created a situation in which it was not financially advantageous for them if the army removed illegal settlers. To forcibly remove whites from Indian lands would ruin those officers' investments and sully the popularity of the army amongst those who planned to migrate to Kansas. The conflict of interest between personal financial gain and professional responsibility to enforce the laws and protect settlers and friendly Indians alike caused the War Department a great deal of anguish. The conflict also intensified the enmity between the War Department and the Indian Affairs office of the Interior Department. All of these factors—slavery extension, the role of the BIA, and the influence of land grabbing—made the army's peacekeeping responsibilities in Kansas much more complex than they had been when Jefferson Davis was a lieutenant. How the army responded to these circumstances provided an interesting insight into the

dilemmas associated with domestic peace operations and the army's professional development in the 1850s.

In anticipation of the passage of the Kansas Nebraska Act, Colonel Thomas Fauntleroy, commander of Fort Leavenworth, asked General Newman Clarke for guidance on what he should do if white emigrants came pouring into Kansas once the act was official. Should the troops interfere with the onslaught of emigrants? How far should the army go to prevent settlers from claiming Indian lands? And under what circumstances should the army intervene?<sup>12</sup> In his response to Fauntleroy's request, Clark was clear in what he expected the army to do in Kansas: "you will take no action to prevent emigrants passing into Nebraska, nor interrupt them in any manner, unless ordered from high authority."<sup>13</sup> Clark also informed the Commanding General in New York that he had instructed Fauntleroy not to take any steps against persons moving into the territory. Should the army be ordered to intervene by higher authority, however, he was more than happy to issue instructions to his commander at Fort Leavenworth.<sup>14</sup> Neither Fauntleroy nor any other military commander in Kansas received any orders or instructions authorizing the use of force to keep emigrants out of the newly formed territories.

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<sup>12</sup> "Report of the Secretary of War," Colonel Thomas T. Fauntleroy to Major F.N. Page, 24 May 1854, in Senate Executive Document 58, 33<sup>rd</sup> Cong., 2<sup>nd</sup> Sess., Ser. 752, 4.

<sup>13</sup> Francis N. Page to Col T. Fauntleroy, 1 June 1854 in House Executive Document 50, 33<sup>rd</sup> Cong., 2d sess., serial 783, 17. See also *St Louis Republican*, 31 July 1854, 1. It was not unusual for the *Republican* to print orders verbatim from the Commanding General, AGO, or from the Department of the West. While this procedure kept the public informed of army operations, it also aired policy decisions that placed the army in awkward situations. Clark's order allowing emigrants to enter Kansas without interference from the army when no whites were legally allowed to make claims on most of the land in the territory was but one example.

<sup>14</sup> "Report of the Secretary of War," Colonel N.S. Clark to AAG, HQ USA, 29 May 1854, Senate Executive Document 58, 33<sup>rd</sup> Cong., 2<sup>nd</sup> Sess., Ser. 752, 4. The Commanding General's Office forwarded Clark's letter to the AGO on 6 June 1854.

In February 1855 the Senate questioned the War Department about why Brigadier General Clark had ordered the Fort Leavenworth commander not to interfere with or prevent the illegal emigration of whites into Kansas.<sup>15</sup> Davis's response reflected more of his personal opinion than Clark's actual motives. Although he had not asked Clark for an explanation, Davis concluded that the general made his decision based on two factors. First, with the establishment of a territorial government, there was no longer a need for the army to act as a law enforcement agency. Territorial officials, Davis implied, should assume the duties of enforcing the laws. Secondly, the "extinction of the Indian title relieved the military from the obligation, and deprived them of the authority," Davis concluded, "to prevent persons from entering upon these lands, which had now become public lands of the United States."<sup>16</sup> Whether Clark based his decision on these factors was irrelevant. His "hands off" guidance to Captain Hunt, acting commander of Fort Leavenworth once Colonel Fauntleroy had departed for New Mexico, led to the perception of local investors and prospective settlers that the army would not stop them from entering Kansas. As far as the army was concerned, settlers and speculators were free to invest in town lots and to make claims on lands that were not yet legally available for settlement.<sup>17</sup>

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<sup>15</sup> Report of the Secretary of War, Jefferson Davis to Senator J.D. Bright, Senate pro tem, 20 February 1855, Senate Executive Document 58, 33<sup>rd</sup> Cong., 2<sup>nd</sup> Sess., serial 752, 1.

<sup>16</sup> Report of the Secretary of War, Jefferson Davis to Senator J.D. Bright, Senate pro tem, 20 February 1855, Senate Executive Document 58, 33<sup>rd</sup> Cong., 2<sup>nd</sup> Sess., serial 752, 3.

<sup>17</sup> Captain F.E. Hunt to Messrs. McHolland, Miller, Stringfellow, and Gillespie, 10 July 1854 in House Executive Document 50, 33<sup>rd</sup> Cong., 2d sess., serial 783, 16-17. Hunt responded to McHolland et al's request for information on the legality of settling on either Delaware or military reserve lands by stating that "a town, I believe, has been or is about being laid out by persons in Weston, and two officers of the army stationed here, near the mouth and north of Three Mile creek, which is off the Reserve and on Delaware land. You will perceive, from my instructions [from General Clark], I cannot interfere." The Indian Agents in the area were also concerned about the army's posture



Unwilling to wait for the mandated survey process to begin let alone be completed before legal settlement could commence, thousands of land hungry settlers and speculators made their way into Kansas and Nebraska, especially from nearby Missouri. According to a daughter of a Methodist missionary residing in pre-territorial Kansas, "As soon as the treaty with the Indians was ratified the emigration began to pour in men began to stake off claims."<sup>18</sup> Claims were located, staked out, and registered, often at the nearest military installation since there were no land offices in operation that could do so.<sup>19</sup> Many settlers formed extra-legal squatter associations to protect their claims from others who might try to steal them or against those who might force them off their property. These associations also sought to guarantee the lowest prices for the choicest properties by preventing others from participating in the land sale process.<sup>20</sup> When these claim or protective associations proved inadequate, settlers often looked to the army to provide the necessary police functions to protect their property and to maintain order amongst all the competing land seekers. Without an effective law enforcement agency to protect settler's interests or to uphold federal law in the territories, the army was the only legitimate institution that could perform those much-needed police functions.

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regarding the influx of settlers. "The commandant at Fort Leavenworth," Agent Robinson reported to the Superintendent of Indian Affairs, "is of the opinion the military cannot act without orders from the President." He too asked for guidance from higher headquarters. Instructions from the Commissioner of Indian Affairs would have been most welcomed by Robinson. See Robinson to Cumming, 13 July 1854 in Senate Executive Document 50, 33<sup>rd</sup> Cong., 2d sess., serial 752, 4.

<sup>18</sup> See Rovia M. Still Clark Collection, MSS, KSHS.

<sup>19</sup> David C. Skaggs, Jr., "Military Contributions to the Development of Territorial Kansas" (Masters Thesis, University of Kansas, 1960), 39.

<sup>20</sup> Benjamin H. Hibbard, *A History of Public Land Policies* (Madison: WI, 1924), 208. See also Miner and Unrau, *End of Indian Kansas*, 19; "Speculation in Public Lands," from *Washington Star* in *St Louis Republican*, 13 November 1854, 2 and *St Louis Republican*, 31 July 1854, 1.

The army, however, was once again in an unenviable position. As the largest and most powerful arm of the federal government in Kansas, it was responsible for keeping the peace in the territory, protecting federal lands, and for enforcing treaty provisions. Since all settlements and speculations in Kansas prior to a government survey were "illegal," the army was obligated to remove all who intruded upon Indian lands.<sup>21</sup> Until 1854 the only whites authorized to reside in Indian Territory besides army personnel assigned there were licensed traders, missionaries, and Indian Agents. All others were intruders. In accordance with laws like the Indian Intercourse Act of 1834, the army could be called upon to remove anyone who settled on Indian lands in the territory without permission of the government.<sup>22</sup>

Based on its actions, the federal government had demonstrated its intent that it would not use the same peace enforcement measures against illegal white settlers that it had employed against the Lakota during the Sioux expedition. There were few economic measures that could be taken to get squatters to move short of refusing to trade with them. Military force could be used, but the federal government grimaced at the thought of using federal troops to remove whites that had settled on or laid

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<sup>21</sup> Section 10 and Section 11, An Act to regulate Trade and Intercourse with Indian Tribes, and to Preserve Peace on the Frontiers, 30 June 1834, 3, RG 393, Box 2, NARA. These sections authorized the President to use military force to remove violators. Section 10 gave the Superintendent of Indian Affairs, Indian agents and sub-agents the authority to remove intruders. Although they had such authority, without a dedicated means to enforce the Indian intercourse act they had to rely the military. Without the army, the Indian Affairs Office possessed little power to enforce the Indian Intercourse Act. Removal of intruders from ceded Indian lands was also authorized by federal statute of 3 March 1807. See Skaggs, "Military Contributions," 38. In 1853, Thomas Hart Benton encouraged settler to migrate to Kansas despite treaty restrictions. He believed that only lands identified in a map were restricted. All land that did not fall within a specified boundary was open to settlement. Even if Benton had been correct, it would have been impossible for any given settler to know where a particular Indian peoples' land began and where it ended. Without a proper survey and marking, conflicts over land claims and ownership were destined to complicate the settlement of Kansas.

<sup>22</sup> Section 10 and Section 11, An Act to Regulate Trade and Intercourse with Indian Tribes, and to Preserve Peace on the Frontiers, 30 June 1834, 3, RG 393, Box 2, NARA.

claims to lands belonging to the various emigrants Indians peoples in eastern Kansas. Removing illegal squatters by force from military reserves was a bit more palatable, but using federal troops to remove white citizens—while effective—was never a popular option. Forced removal alienated the squatters and did little to improve civil-military relations among the growing number of white inhabitants in Kansas. Regardless of the unpleasantness, the government called upon the army to remove squatters from Indian lands and from areas designated as military reserves. The American people expected the government and the army to provide peace, order, and security in Kansas as it had done along the Oregon Trail.<sup>23</sup> But in its mission to keep the peace in Kansas by enforcing laws and treaty stipulations, the army could not or would not wage peace enforcement operations against white citizens in the same manner as it against the Sioux following the Grattan Massacre. The use of deadly force against citizens to compel compliance was not an option.

There were two other factors associated with land that complicated the army's role as peacekeeper in Kansas. One centered on the question of military reserve locations and boundaries. The other concerned the active participation of several army officers and civilian personnel who worked for the government in land speculation. In order to facilitate legal settlement and protect the government's interests, Jefferson Davis had ordered surveys of both Fort Leavenworth and Fort Riley to ensure that their boundaries were properly marked and identified. He wanted to preclude any illegal settlements on War Department lands by clearly delineating military reserve boundaries. In an attempt to provide more land for settlement, he

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<sup>23</sup> See Skaggs, "Military Contributions," 1-3.

also asked his field commanders to reduce the size of their reserves if at all possible. A reduction would please land-hungry settlers and enhance military-civil relations.<sup>24</sup> Despite his intentions, Davis's survey orders generated tensions between the army, the local populations, and the Interior Department.

The controversy over military reserves became more problematic when several army officers assigned to Fort Leavenworth and Fort Riley purchased or pre-empted Indian lands for themselves. Many of those officers who engaged in land speculation also joined and served as officers of various town associations that were actively involved in establishing town sites near Fort Leavenworth and Fort Riley. As American citizens those army officers had every legal right to engage in land speculation. There was no civil or military law that prohibited an officer, soldier, or civilian government employee from buying, selling, or pre-empting land. But as military officers and government officials they were also obligated to uphold and enforce the laws and treaties of the United States. When Indian Agents asked for military assistance to remove illegal settlers from protected Indian lands, the War Department normally supplied the necessary manpower. Since Fort Leavenworth was the nearest post to most Indian reserves in eastern Kansas, the commanding officer was expected to comply with a local Indian Agent's request for troops to

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<sup>24</sup> Report of the Secretary of War, Jesup to John Wilson, Commissioner, General Land Office, 11 July 1854, in Senate Executive Document 58, 33<sup>rd</sup> Cong., 2<sup>nd</sup> Sess., serial 752, 6; Report of the Secretary of War, John Wilson to Lieutenant Colonel Charles Thomas, Deputy Quartermaster General, 11 July 1854, in Senate Executive Document 58, 33<sup>rd</sup> Cong., 2<sup>nd</sup> Sess., serial 752, 7; Report of the Secretary of War, Cooper to Commanding Officer Fort Leavenworth, Missouri, 11 August 1854, in Senate Executive Document 58, 33<sup>rd</sup> Cong., 2<sup>nd</sup> Sess., serial 752, 8; Report of the Secretary of War, Jefferson Davis to Robert McClelland, 14 October 1854, in Senate Executive Document 58, 33<sup>rd</sup> Cong., 2<sup>nd</sup> Sess., serial 752, 8; and Report of the Secretary of War, Hunt to Cooper, 28 September 1854, in Senate Executive Document 58, 33<sup>rd</sup> Cong., 2<sup>nd</sup> Sess., serial 752, 8-9.

physically remove white intruders once he had received orders from higher headquarters.

Several members of the Indian Affairs bureau of the Interior Department further complicated the army's situation in Kansas. Local Indian Agents sought to protect their Indian wards by keeping unauthorized persons off of Indian lands. Lacking any internal means of expelling intruders, they relied almost exclusively on the army to remove illegal settlers in Kansas. Indian Agents, however, did not have any operational control over local military commands. They had to request military support through their chain of command. Similar to the process used by federal Marshals described earlier, a request for troops flowed from the local agent through the Superintendent of Indian Affairs in St Louis. From there it would go to the Commissioner of Indian Affairs in Washington. He would then send it to the Interior Secretary who would forward it to the President for his permission to use federal troops. If approved, the request would go to the War Department for action. Once there the Secretary would issue orders to aid the Indian Agents. The request for aid would normally take weeks before it reached the War Department. And, once approved, it would take weeks to flow back down the army's chain of command from Washington through the Department of the West in St Louis to the applicable commander at either Fort Leavenworth or Fort Riley. The cumbersome system was adequate if there was no rush to evict illegal squatters. From most agents' perspective, however, time was critical.<sup>25</sup> The longer intruders remained on Indian lands the more difficult it would be to remove them. The quicker the army aided

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<sup>25</sup> See Miner and Unrau, *End of Indian Kansas*, 59-60 on communication problems of Indian Agents.

them in removing the offending emigrants, the better for all concerned. But without the legal authority to task the army to aid in the removal process, such as was given to Marshals during the Anthony Burns crisis in May 1854, the Indian Agents could only wait for proper authority to come from Washington before executing any efforts to physically expel white settlers from Indian lands.<sup>26</sup>

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<sup>26</sup> Miner and Unrau, *End of Indian Kansas*, 53. As the Kansas-Nebraska Act was waiting for President Pierce's signature, a fugitive slave named Anthony Burns awaited his return to the South in Boston. In accordance with the Fugitive Slave Act, the law required Burns return to bondage. Many Bostonians and many Americans were appalled to think that Burns had to be sent back into slavery after seemingly securing his freedom in the North. Some believed that if the Missouri Compromise of 1820 was no longer applicable then the Fugitive Slave Act was also no longer sacred either. Angry Bostonians tried several times to rescue Burns from his captives. A disorganized attempt on 26 May to free Burns was repulsed by the Marshal and 50 special aides. Following the rescue effort, Boston's mayor requested militia to assist in keeping order and dispersing remaining crowds. The Marshal—acting under what would become known as the Cushing Doctrine—asked for and received a certificate from the local federal judge authorizing the use of regular troops to aid in the executing of the laws of the United States. The Marshal, armed with the certificate, asked for and received assistance from the commander of nearby Fort Independence. He sent around 120 men early on 27 May to secure the courthouse where Burns was to be tried.

Wondering if they needed more regular forces to maintain the peace and execute the law, the Marshal and the District Attorney requested additional troops. This time, instead of going to the President or the Secretary of War, they telegraphed the General-in-Chief, Lieutenant General Winfield Scott, for immediate assistance. They asked "for all the troops that [could] be spared to execute the laws of the U.S. at that place." Scott's instinct was to comply with the request, but he felt he had "no authority to act in this case without the orders of the President." The use of federal troops to execute the law in such a volatile situation could generate consequences far greater than the General was willing to take responsibility for. Scott was also unsure of the legality or protocol of a Marshal asking for troops from outside the Marshal's jurisdictional reach.

Scott did not receive the request from Boston until late on 29 May. His telegram to the Secretary of War, although dated 2200 hours on 29 May, evidently did not arrive at the telegraph office in time for transmission to Washington that evening. It went out the next morning along with a duplicate copy of the dispatch by mail. Scott's telegram arrived at the telegraph office in Washington at 0821. But from there it had to be delivered to the War Department by messenger. Once it arrived, the Adjutant General, Colonel Samuel Cooper, forwarded the message to the Secretary of War, Jefferson Davis, for his review and action.

By late afternoon on 30 May, Scott grew anxious. He had not heard from Washington and was unsure as to what he should do. He felt comfortable ordering troops to be prepared to move on Boston once he was ordered to do so, but that was as far as he would dare go without express Presidential direction. Becoming more impatient, he sent another telegram to Washington on 30 May asking for guidance. This dispatch arrived at Washington at 1520, but it too had to be delivered to the War Department from the telegraph office at the National Hotel. The War Department did not receive the telegram until the next day. Scott had to wait until 31 May to get a response to his 29 May request. In the interim, President Pierce had ordered the Adjutant General, Colonel Samuel Cooper, to Boston to assess the situation and establish contact with General Scott from there. Cooper never called on Scott for additional troops, there were sufficient numbers in the Boston area to accomplish the mission.

The requirement to remove intruders from Indian lands presented commanding officers at Fort Leavenworth and at Fort Riley with some delicate ethical and professional dilemmas. On the one hand, they were legally bound to remove illegal settlers. They were obligated by treaty and by statutory requirements to protect all emigrant Indians that resided in Kansas.<sup>27</sup> On the other hand, how could a commanding officer willingly order his troops to remove intruders off lands that some of his officers had either purchased or invested in as part of a town association? Since many believed that it was only a matter of time before those "protected" Indian lands were made available for settlement, why bother evicting white settlers who were going to end up owning the land anyway? The dilemma surrounding intruder removal for local military commanders in Kansas was eventually resolved once most of the emigrant Indian tribes in Kansas were removed to what is now Oklahoma by the early 1870s. Until then, the army handled these delicate situations piecemeal and according to the circumstances that surrounded each case.

The fact that American military officers engaged in land speculation was hardly new.<sup>28</sup> Officers and other government officials had speculated in land since

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In the end, a massive combination of 1,000 militia, 180 soldiers and marines, 120 civilian posse members, 300 Boston policemen managed to escort Burns through the hostile crowd estimated at 50,000 to a ship waiting in Boston Harbor to return him to the South on 2 June. Bostonians proclaimed their displeasure by calling the troops "kidnappers" as they marched their prisoner into bondage once again. Despite the unpopularity of their actions, the troops had successfully aided local law enforcement officials in the enforcement of federal law in spite of the condemnation heaped upon them by the local population. The Burn's affair was but a sneak preview of things to come in Kansas. See "Very Interesting Correspondence," *Montgomery Advertiser*, 14 June 1854, 1; HQ USA to AGO, telegram, 30 May 1854, LLAGO Roll 497; HQ USA to AGO, telegram, 30 May 1854, National Archives and Record Administration, RG 108; and General-in-Chief to AGO, telegram, 30 May 1854, LLAGO Roll 497. For a more detailed account of the military implications of the Burns Affair, see Coakley, *Role of the Federal Military Forces*, 133-137.

<sup>27</sup> See J. Patrick Hughes, *Fort Leavenworth: Gateway to the West* (Topeka: Kansas State Historical Society, 2000), 46-47.

<sup>28</sup> Skaggs, "Military Contributions," 11.

colonial times. George Washington, Benjamin Franklin, Robert Morris, and Patrick Henry were but a few of the most noted civil and military leaders that had ventured into numerous speculative activities.<sup>29</sup> Some officers acquired great wealth while others failed miserably.<sup>30</sup> Since there was no law or specific regulation prohibiting speculation, many officers saw land speculation as a legitimate means to supplement their military wages.<sup>31</sup> The practice was not generally contested unless an officer used his authority inappropriately. If an officer ordered enlisted troops to clear brush or to construct buildings on lands on which he speculated, then he had misused his position and was subject to disciplinary action. Since most American civilians probably saw this as an internal military issue, they rarely levied conflict of interest charges against officers who speculated. Army officers were citizens too and they should have as much opportunity to succeed as those citizens they were sworn to protect. But there was something nefarious about land speculation and land speculators in the 1850s, and the involvement of military officers at Fort Riley and Fort Leavenworth in land speculation led to charges of inappropriate conduct by both local civilians and government officials.<sup>32</sup>

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<sup>29</sup> Hibbard, *History of Public Land Policies*, 226.

<sup>30</sup> Skelton, *Profession of Arms*, 201. One particular Captain of the Quartermaster Department, Joseph L. Folsom, was "reputed to have been the largest landowner in California." When he died in 1855, his personal estate was worth an estimated \$2,000,000.

<sup>31</sup> The following are examples of officers' salaries. The officers selected were those most heavily involved in land speculation in Kansas. According the Army Register for 1854, Major Montgomery earned \$2,123.35, Major Maclin earned \$2435.94, Captain Ogden earned \$1,590.28, and Captain Hunt earned \$1806.28. Salaries varied according to rank and entitlements such as servants allowance, quarters allowance, and an allowance for forage. See "Army Register," House Executive Document 58, 33<sup>rd</sup> Cong., 2d sess., serial 783.

<sup>32</sup> For more on the history of land speculation, see Hibbard, *History of Public Land Policies*. Land speculators were often seen in a negative light because they earned profits without having to physically work for their money. Granted there was always risk involved in speculation, but the practice went against the grain of American values of hard work and fair play.



The first of these charges were levied against two officers assigned to Fort Leavenworth. Major E.A. Ogden, the post's assistant quartermaster, and Major Sackfield Maclin, the regional paymaster, were heavily involved with the Leavenworth Town Association. The Association had laid out a town site just south of Fort Leavenworth in June; just weeks after Pierce signed the Kansas Nebraska Act. The town site was situated on lands that were either part of the Delaware reserve or on property that was part of the military reserve.<sup>33</sup> Either way, the town association had no legal authority to establish what would become the city of Leavenworth. The subsequent investigation of these officers' activities highlighted the army's ethical and professional dilemma.

Most if not all of the projected town site was on lands that legally belonged to the Delaware people. They were one of many Native American peoples residing on lands promised to them in perpetuity by earlier treaties. But like earlier treaties, most Delaware realized that with the inevitable onslaught of whites following the passage of the Kansas-Nebraska Act their days in Kansas were numbered. In the Delaware Treaty of 6 May 1854, the Delaware ceded "their right, title, and interest" to the lands they occupied. Their lands stretched roughly west from the Missouri River, north of the Kansas River to just south of Fort Leavenworth.<sup>34</sup> And like other cession treaties

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<sup>33</sup> See Rev. John McNamara, *Three Years on Kansas Border* (New York: Miller, Orton and Mulligan, 1856), 64. The Leavenworth Association, McNamara observed in November 1854, "had laid off a town on lands not subject to pre-emption. They had been warned by Commissioner Manypenny and Caleb Cushing, and gently catechized (sic) by Jefferson Davis. The town is either laid off on the military Reserve, and therefore not subject to pre-emption any more than the lands on which Pawnee was laid out at Fort Riley, and decided by Jefferson Davis to be given up—or it is laid off on Delaware Indian lands, not subject to pre-emption, but to be sold to the highest bidder for the benefit of the poor Indians."

<sup>34</sup> "Delaware Treaty" in *Indian Affairs. Laws and Treaties*, ed. Charles J. Kappler, vol 2, *Treaties* (Washington: Government Printing Office, 1904), 614-618.

negotiated by the United States, the goal of the federal government was to encourage the settlement of the new territories as quickly as possible.<sup>35</sup>

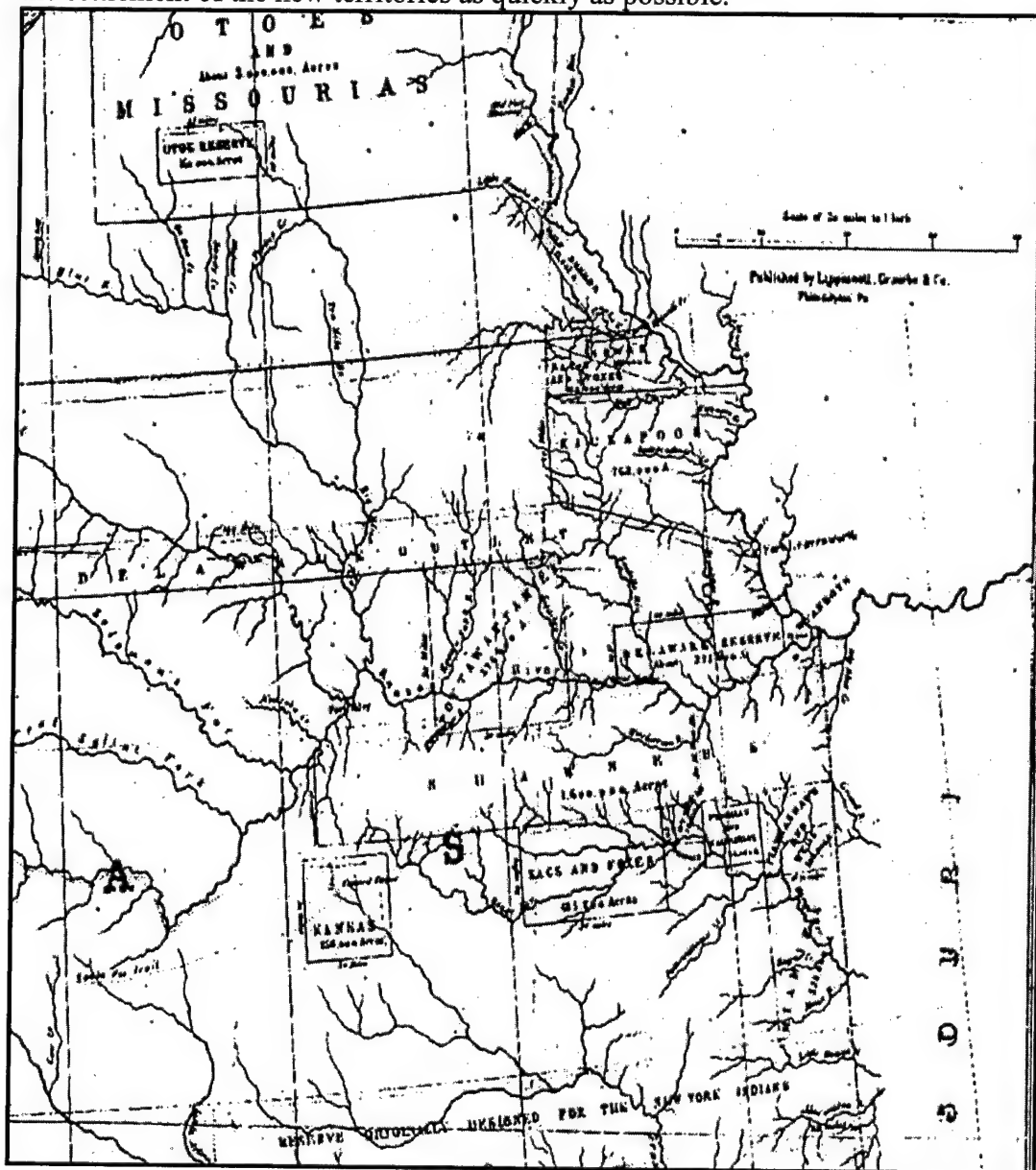


Figure 4, A Portion of Eastman's Map of Kansas and Nebraska<sup>36</sup>

<sup>35</sup> Kappler, "Treaty with the Delawares, 1854," 615.

<sup>36</sup> Map courtesy of Kansas Collection, University of Kansas Libraries.

The Delaware Treaty, however, was unusual from other land cessions in that it required the ceded lands, except the lands known as the "Outlet," to be surveyed prior to being sold at public auction. In other words, what made the Delaware cession different from most other cessions was the inapplicability of the preemption law of 1841.<sup>37</sup> Neither settler nor land speculator could legally gain title to any land in the Delaware cession until the above criteria had been met. It would take over two years before the government officially surveyed all of the Delaware land thereby making it legally ready for public auction. The original intent behind this procedure was to get the best price possible for the ceded land to compensate the Delaware for their losses and to help pay for their relocation to a reduced portion of the original reserve.<sup>38</sup> Unfortunately for the Delaware and other emigrant Indian peoples, preemption claims against their trust lands began almost immediately.

Other political factors exacerbated the problems with controlling the influx of white settlers into Kansas. The popular sovereignty aspect of the Act and the elimination of the Missouri Compromise encouraged competing pro-slavery and anti-slavery factions to send as many settlers to Kansas as quickly as possible. This political competition overlaid with personal economic ambitions increased the great demand for land in Kansas whether it was legally restricted or not. To ensure Kansas would become a slave state, pro-slavery factions encouraged settler's who were

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<sup>37</sup> The Preemption Law of 1841 allowed preemption of the public domain by squatters once the United States government had secured title to the land and the lands had been surveyed. There was no requirement to hold an auction for the benefit of a particular American Indian tribe. See "An Act to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights," 4 September 1841, *United States Statutes at Large*, Vol. 5 (Boston: Charles C. Little and James Brown, 1846), 453-458.

<sup>38</sup> Franklin Pierce to Congress, 29 January 1855 in Richardson, *Messages and Papers*, 299.

“sound on the goose” to migrate to Kansas. They wanted to ensure that enough pro-slavery voters arrived before the first territorial elections. A pro-slavery territorial legislature would—in the minds of most pro-slavery advocates—guarantee slavery’s existence. Free-state or free soil advocates and their organizations would do the same. They wanted to make certain that Kansas became a free state and that the extension of slavery into the territories would be halted. But even without the emotionally laden slavery question, Kansas seemed destined to be a center of controversy. Debates over land speculation, rights of Native Americans, the sanctity of treaties, and the role of the military in enforcing federal law and maintaining the peace, order, and security of the region rendered a complex situation even more complicated.

### **Land Speculation—Fort Leavenworth**

On 13 June 1854, thirty Missourians and two military officers assigned to Fort Leavenworth formed an association dedicated to the creation of a new town site near the fort. In the Leavenworth Association’s charter, the members sought to procure “a claim to a certain tract of land in the Delaware lands, adjoining the military reservation in the Territory of Kansas, with the ultimate view of perfecting a title to the same.”<sup>39</sup> The members of the Association promised to “protect and defend each in all possible ways against all aggression whatsoever, until a title to the same is fully perfected.”<sup>40</sup> The goal was to lay claim to the town site of Leavenworth and prevent any other speculators from doing the same. Granted the land they identified was

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<sup>39</sup> H. Miles Moore, *Sketches of the Early Settlement of the City and County of Leavenworth, Kansas* Collection, University of Kansas Libraries, 6-7.

<sup>40</sup> *Ibid.*, 6.

restricted, but the Association members believed the government would not or could not keep them from pursuing their goal under current preemption and town site laws. Signatories of the Association's charter included Major Maclin and Major Ogden.<sup>41</sup>

As members of the Leavenworth Association, Major Maclin and Captain Ogden had committed no crime nor violated any existing army regulation. As American citizens both Maclin and Ogden had the right to speculate in land and to make or to lose money in the process. Why should not Maclin and Ogden be afforded the same opportunities as the nation's founding fathers to supplement their incomes? It was this "why not" issue that formed the ethical dilemma of the day.

Although there was nothing inherently wrong with military officers belonging to a land association per se, the fact that the Leavenworth Association's claim was illegal made the officers' participation questionable at best. The Association's claim to and physically staking out a town site on Delaware trust lands was a blatant violation of the terms of the Delaware Treaty and therefore an illegal act. The larger question then for the army was how could its leaders in good conscience allow Majors Maclin and Ogden to pursue personal wealth as land speculators when part of the army's overall *raison d'être* was to preserve peace between whites and Indians and to prevent unlawful settlement on public lands.<sup>42</sup> The Association's illegal claim to Delaware lands had the potential to disrupt relations between the United States and the Delaware Nation. And its promotion of the Leavenworth townsite encouraged

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<sup>41</sup> Ibid., 7. It should be noted that Ogden was not present when the articles of the Association were signed, but he was given "full membership and interest in the society." Ogden also served as one of the first trustees of the Leavenworth Association. Normally, trustees were among the most active and visible members of these types of organizations. Maclin's signature is before Ogden's so it is difficult to say when he signed the articles of incorporation.

<sup>42</sup> Skelton, *American Profession*, 6.

unlawful settlement. But if there was such an obvious conflict of interest between Maclin's and Ogden's role as military officers commissioned to preserve the peace on the one hand and their personal desire to make more money on the other, why did these officers continue their participation in the Association after local settlers and citizens as well as other government officials complained about their perceived inappropriate conduct?

Commissioner of Indian Affairs for the Interior Department, George W. Manypenny, was the most vocal of government officials who complained about Maclin's and Ogden's conduct.<sup>43</sup> Manypenny outlined his charges in a letter addressed to Interior Secretary Robert McClelland in September of 1854. He began his indictment by describing the Delaware's growing concern over the increasing number of whites who had settled on their trust lands and the allegations that the settlers did so because the land was subject to preemption.<sup>44</sup> Manypenny reminded McClelland that settlement was occurring despite the fact that the Attorney General,

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<sup>43</sup> George W. Manypenny was born in Uniontown, Pennsylvania in 1808, but lived mostly in Ohio. He served as Commissioner of Indian Affairs from 1853-1857. Manypenny was also a contractor, newspaperman, and a land speculator. He was most noted for his sympathetic look at Native Americans in his book, *Our Indian Wards*. See *The Papers of Jefferson Davis*, ed. Lynda Lasswell Crist, vol. 5 (Baton Rouge: Louisiana State University Press, 1985), 95 n and George W. Manypenny, *Our Indian Wards* (1880; reprint, with a foreword by Henry E. Fritz, New York: Da Capo Press, 1972), xiii. See also Skaggs, "Military Contributions," 11.

<sup>44</sup> James Findlay, a trader among the Delaware informed Thomas Johnson that the "Delawares were very much disturbed about the white people settling on their lands which they recently contracted with the government to have sold for their benefit." The Delawares were afraid, Findlay observed, that "if the white people should be permitted to make improvements on those lands, that they will want pre-emption claims; and if not granted, they may enter into combinations and cause the provisions of the treaty to be defeated." Recent correspondence between the Fort Leavenworth commander and other interested parties justify the Delawares concern. The army's position coupled with the ambiguity of the 22 July 1854 act that authorized pre-emption of public lands further complicated protection of the Delaware's interests. See Thomas Johnson to George Manypenny, 7 August 1854 in Senate Executive Document 50, 33<sup>rd</sup> Cong., 2d sess., serial 752, 12-13.

Caleb Cushing, had opined in August that that preemption law of 1841 did not apply to the Delaware cession.<sup>45</sup>

In his letter, the Commissioner identified what he considered to be the root cause of the issue. "The principal claims are made adjacent to and within a few miles of the military reserve, ...; and I regret to say to you, that Major Ogden, of the quartermaster's department, and Major Macklin, of the pay department, have been the principal and main instigators to this lawless course of proceeding."<sup>46</sup> Manypenny believed strongly that both officers were "guilty of conduct for which they ought to be cashiered and discharged from the service."<sup>47</sup> He made several other damning accusations against the Leavenworth officers as well.

They [Maclin and Ogden] were the prime movers in projecting the new town site of Leavenworth, some two and a half miles below the fort, and on the Delaware tract, and have enlisted with them some thirty other persons. After making this move in violation of the treaty, they are, and have been, urging settlers to make claims adjacent the military reserve, and for miles distant on the Delaware land; hoping thus to make force to aid them. They have now an advertisement out to sell lots at this town on the 9th October; and to induce persons to buy, this story is rife that government has made a special grant of

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<sup>45</sup> Manypenny to McClelland, 26 September 1854 in House Executive Document 50, 33<sup>rd</sup> Cong., 2d sess., serial 783, 30-31. For a complete account of the Attorney General's ruling on the Delaware cession and preemption see Caleb Cushing, "Pre-Emption in Kansas and Nebraska," 14 August 1854 in House Executive Document 50, 33<sup>rd</sup> Cong., 2d sess., serial 783, 21-27.

<sup>46</sup> Manypenny to McClelland, 26 September 1854 in House Executive Document 50, 33<sup>rd</sup> Cong., 2d sess., serial 783, 30. Manypenny refers to Ogden as a Major in his letter to McClelland. At the time of Manypenny's accusations Ogden was a Brevet Major. Brevet ranks were awarded for bravery or for ten years service in a particular rank. Captain Ogden was made a Brevet Major in 1847. Brevet rank was more or less an honorary rank without the associated pay. Promotion was a sensitive subject to many officers of the time. The Army based promotion strictly on seniority and promotion rates were typically quite slow. The paucity of promotions can be seen as another reason for officers to pursue extra income through land speculation. As a paymaster, Sackfield Maclin held the permanent rank of Major, although some contemporaries still referred to him as Captain. Manypenny misspelled Maclin's name as Macklin. He was not the only one to commit this error. Major William Montgomery became a Brevet Lieutenant Colonel in 1848.

<sup>47</sup> Ibid.

320 acres for the town, and that therefore there can be no difficulty about title.<sup>48</sup>

In addition to the above charges, Manypenny stated that “soldiers were employed to help build their pre-emption shanties, cut the brush, and &c., and government tents were used at the time.”<sup>49</sup> He also relayed a story to McClelland of an innocent squatter being forced off his claim by military threats. According to Manypenny and local newspaper accounts, army troops in Maclin’s presence forced a Mr. F. Hawn to surrender his claim. They removed Hawn not to comply with treaty stipulations, but to ensure military men assigned to Fort Leavenworth could take his claim for themselves.<sup>50</sup> Lastly, Manypenny asserted that the ongoing survey of the Leavenworth military reserve directed by the War Department had reduced the size of the reserve to allow an unclaimed strip of land between the Delaware tract and Fort Leavenworth. The Commissioner believed military men and their friends were aware of the strip and staked their preemption claims in order to make a substantial profit from them.<sup>51</sup>

Manypenny concluded his letter to McClelland with a proposed solution to the ongoing treaty violations. He recommended the military use force to remove the squatters from the Delaware lands, including the Leavenworth town site. Once the

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<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

<sup>50</sup> For Hawn’s view of his expulsion, see, “Advertisement,” *Kansas Herald*, 3 November 1854. Fawn’s account was dated Columbia, 18 September 1854. Hawn was an engineer who was hired to survey and lay out the town of Leavenworth. See “Town of Leavenworth,” 15 September 1854, for more information on his activities at Leavenworth.

<sup>51</sup> See F. Hawn to General Land Office, 13 September 1854 in House Executive Document 50, 33<sup>rd</sup> Cong., 2d sess., serial 783, 95-96 and Wilson to Hawn, 25 September 1854 in House Executive Document 50, 33<sup>rd</sup> Cong., 2d sess., serial 783, 96 for more information regarding the alleged strip of territory between the military reservation and the Leavenworth town site. See map B for the Hunt survey results and the portion of land that Hunt recommended the War Department identify as Delaware land. See also Hunt to Colonel Samuel Cooper, 28 September 1854 in Senate Executive Document 58, 33<sup>rd</sup> Cong., 2d sess., serial 782, 8-9.



military took action, Manypenny believed the other violators would leave and the Delaware cession would be handled in accordance with treaty stipulations.<sup>52</sup> To counter Manypenny's efforts to undermine their speculative interests, the town company sent a representative—Lorenzo D. Bird—to Washington to appeal to Pierce directly. Evidently, Bird's discussion with the President was fruitful.<sup>53</sup> The squatters and speculators who made claims on lands near the fort were never forcibly removed even though the 1854 treaty stipulations were not changed until a new treaty was negotiated in 1860.<sup>54</sup>

If Manypenny's allegations were true, then surely Maclin and Ogden should have been court-martialed or at least disciplined for conduct unbecoming an officer. Interior Secretary McClelland evidently believed the Commissioner's accusations warranted an investigation and forwarded Manypenny's letter to the War Department on 11 October 1854 for Jefferson Davis's action. On 16 October, Davis requested an inquiry into Maclin's and Ogden's conduct. He ordered the Fort Leavenworth commander, Captain Franklin Hunt, to conduct an investigation and to report the findings to him.<sup>55</sup>

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<sup>52</sup> Manypenny to McClelland, 26 September 1854 in House Executive Document 50, 33<sup>rd</sup> Cong., 2d sess., serial 783, 30.

<sup>53</sup> H. Miles Moore, "Sketches," *Leavenworth Advertiser*, 16 March 1900. Kansas Collection, Spencer Library, University of Kansas Libraries.

<sup>54</sup> "What About the Delaware Treaty," from the *Parkville Luminary*, *Kansas Herald*, 20 October 1854, KSHS. The article also made strong insinuations that the Delaware Agent, B.F. Robinson, may have been misusing Delaware funds for his own benefit.

<sup>55</sup> Cooper to Hunt, 16 October 1854 in Senate Executive Document 50, 33<sup>rd</sup> Cong., 2d sess., serial 752, 12-13. Franklin E. Hunt was born on 1 January 1809 in Hunt's Mill, New Jersey. He graduated from the United States Military Academy in 1829. He attained the rank of Captain on 18 June 1846. He served at Fort Leavenworth from 1850-1855 and returned to Leavenworth during the Civil War to serve as paymaster. He retired in 1879 and died in Leavenworth on 2 February 1881. For additional information on Hunt see Vertical File, Hunt Family, Leavenworth County Historical Society.

By the time Captain Hunt received Davis's order, he had already relinquished command of Fort Leavenworth to Lieutenant Colonel Philip St. George Cooke on 7 October. The new commanding officer, however, began a weeklong leave on 8 October, leaving Major M.S. Howe in charge of the post and the investigation.<sup>56</sup> Ironically, the illegal sale of Leavenworth town lots commenced on 9 October and concluded the following day.<sup>57</sup> Among the many military purchasers of town lots was Captain Hunt, who, only 48 hours earlier, had been the acting post commander.

Hunt's role and involvement in the Leavenworth speculation affair was intriguing. Unlike Maclin and Ogden, Hunt was not a charter member of the Leavenworth Association. Yet he did purchase lots which were on Delaware lands and unavailable for public sale until they had been legally surveyed. Hunt's personal motives for buying property were different than Maclin's and Ogden's. Hunt would ultimately retire from the army in 1879 and settle in the city of Leavenworth on his property and reside there until his death in 1881. More significant, however, was Hunt's role in the investigation in his capacity as acting commander. Although Major Maclin and Brevet Major Ogden would appear to be senior to Captain Hunt, the latter was the senior line officer at Fort Leavenworth.<sup>58</sup> As such Hunt became the acting commander when the appointed commander was on detached service or away from

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<sup>56</sup> Post Return, Fort Leavenworth, October 1854, RG 94, National Archive Microfilm Publication M617, roll 611.

<sup>57</sup> "Town of Leavenworth," *Kansas Herald*, 22 September 1854, KSHS.

<sup>58</sup> A line officer is one that serves in the combat arms branches of the Army. These branches include the infantry, artillery, and cavalry. Staff officers, like Major Maclin and Captain Ogden, serve in Army branches that support the combat arms. The Quartermaster Department, Paymaster Department, and Medical Department are examples of staff functions within the Army. Because line officers came from the combat arms, they assumed operational command even if a staff officer with a higher rank was present. This occurred when Captain Hunt, 4<sup>th</sup> Artillery was the senior line officer left at Fort Leavenworth in June 1854.

the post. And it was during Hunt's tenure as post commander that Maclin and Ogden engaged in most of their speculative activities with the Leavenworth Association.

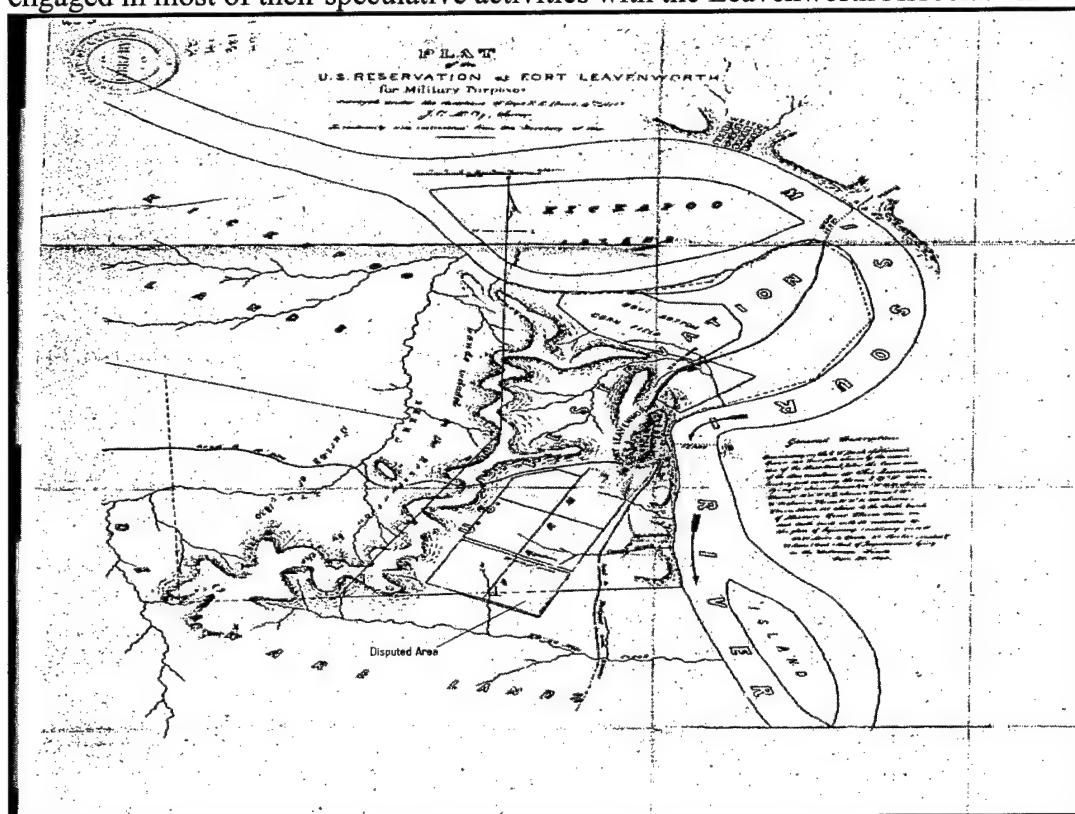


Figure 5, Fort Leavenworth 1854<sup>59</sup>

Commissioner Manypenny's accusations deeply offended Captain Hunt. Although Manypenny had targeted Maclin and Ogden as the primary culprits, Hunt, as the interim post commander, felt personally affronted by the Commissioner's claims. Hunt knew he was responsible and accountable for military activities, good or bad, which occurred during his tenure as post commander. He responded to Manypenny's claims with a venomous defense against the perceived affront to his honor.

<sup>59</sup> Map courtesy of Kansas Collection, University of Kansas Libraries.

Hunt, however, only addressed only two of Manypenny's charges in his rebuttal of 31 October 1854. Aside from some rather poignant barbs thrown against Manypenny's character, Hunt tried to remove any doubt of wrongdoing on his part. He adamantly refuted the Commissioner's claim that military officers ordered troops to clear ground and build preemption shanties on the Association's town site. And it was this charge of misuse of military troops that would have clearly violated army protocol regarding an officer's involvement in speculation. As the post commander and senior line officer, only Hunt could have ordered such use of troops and this he denied doing.

The other issue Hunt addressed concerned the War Department-directed survey of the Leavenworth reserve. Secretary Davis ordered a survey of the fort's boundaries west of the Missouri River on 11 August 1854 because the only existing plat outlined the fort's reservation on the east side of the river. There was nothing in the Land Office that reflected the fort's boundaries on the west side of the river. With the onslaught of emigrants flowing to the west side, Davis believed the fort's limits had to be clearly delineated to preclude illegal settlement on government lands.<sup>60</sup>

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<sup>60</sup> For a complete background to the Hunt survey, see Senate Executive Document 58, 33<sup>rd</sup> Cong., 2d sess., serial 752. The Quartermaster General of the Army, General Thomas S. Jesup, was concerned that the whole of Fort Leavenworth on the west side of the Missouri River might "legally" be available for settlement since there was no official documentation that reflected government ownership. The Hunt survey delineated the boundaries of the post, but identified a small portion that was probably on Delaware trust lands. He recommended that those lands, which were part of the post farms, be returned to the Delaware and that the fence be withdrawn to the new boundary. See Report of the Secretary of War, Hunt to Cooper, 28 September 1854, in Senate Executive Document 58, 33<sup>rd</sup> Cong., 2<sup>nd</sup> sess., serial 752, 8-9.

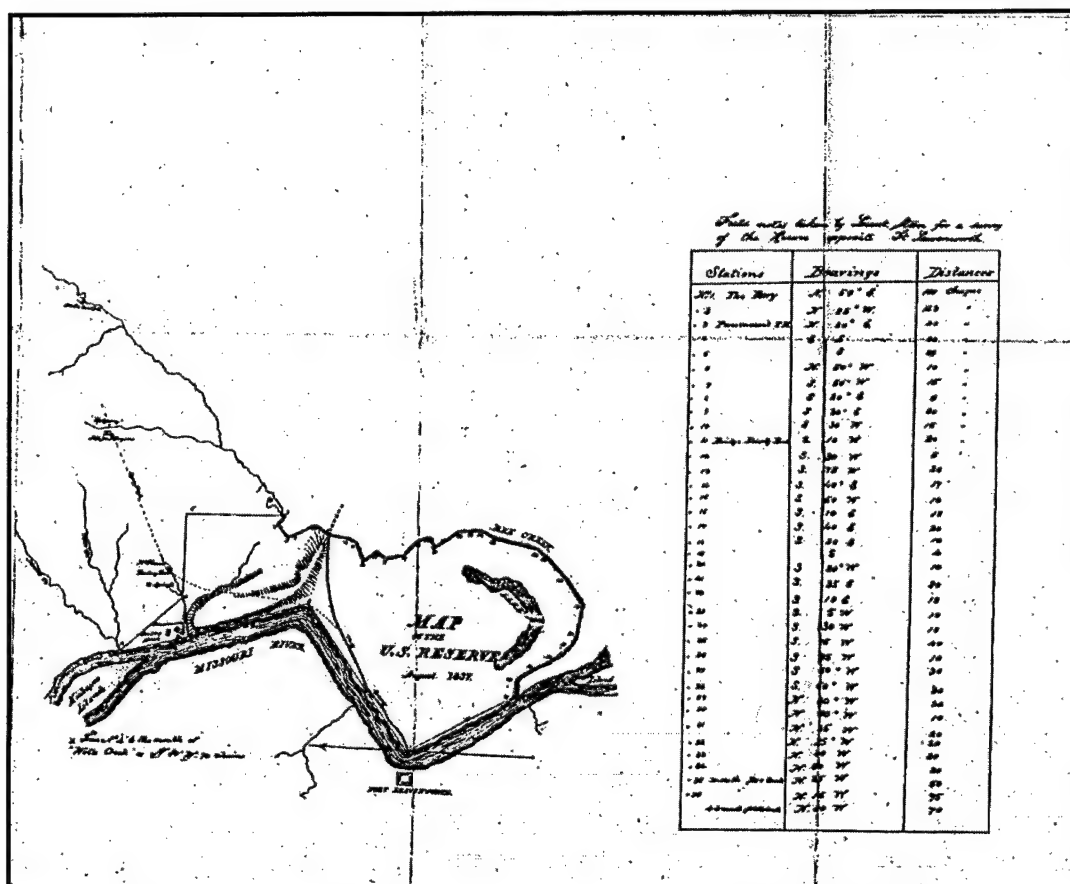


Figure 6, Fort Leavenworth 1837<sup>61</sup>

Hunt vehemently denied the Commissioner's accusations of any wrongdoing associated with the conduct of the survey.<sup>62</sup> He chastised the Commissioner for being involved in issues out of his jurisdiction and defended his honor by belittling Manypenny's character. According to Hunt, "no man who is himself pure would make the charge Mr. Manypenny has made against me."<sup>63</sup> The Captain further

<sup>61</sup> Map courtesy of the Kansas Collection, University of Kansas Libraries.

<sup>62</sup> See Hunt to Hudson, 31 October 1854 in House Executive Document 50, 33<sup>rd</sup> Cong., 2d sess., serial 783, 79 for additional information on the strip of land Manypenny accused Hunt of excluding for the benefit of military officer speculation.

<sup>63</sup> Ibid. Lieutenant E. McK Hudson was Fort Leavenworth's post adjutant. Following military protocol, Hunt and Ogden forwarded their responses to Manypenny's allegations through him. Hudson would then forward the completed investigation through the chain of command until it reached the War Department.

challenged Manypenny to produce undeniable proof of his guilt. Regarding Manypenny's proposed solution to the squatter issue, Hunt boldly stated that he did not have the authority to decide whom the law protected, but if ordered by "proper authority to undertake to remove them" he would do so.<sup>64</sup> Hunt resented Manypenny's and the Interior Department's "snooping" into War Department affairs and his resentment was indicative of the tensions that existed between the two departments in 1854.

Maclin's and Ogden's responses reiterated Hunt's disdain for Commissioner Manypenny's meddling. They, like Hunt, also proclaimed their innocence of all charges levied by Manypenny. Major Maclin flatly denied Manypenny's charge that he was a "prime mover" in the Leavenworth town site. Maclin said he was not even aware of the Leavenworth Association's effort to begin a town site until after it was started. He went on to say that the Association voted him into the organization without his knowledge and that he did not know of his membership until he received a request to attend the Association's next meeting. Concerning the second charge of encouraging settlers to make claims on Delaware lands, Maclin said he knew only a few of the individuals who settled on them. Moreover, Maclin said he could have cared less if these people settled on Delaware lands or not. As a staff officer, he had no obligations beyond ensuring he performed his paymaster function. Maclin also vehemently decried the charge of spreading the rumor that the government had made a special grant of 320 acres and that there would be no difficulty getting title to Leavenworth lands. "That I [Maclin] had circulated the story for the purpose of

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<sup>64</sup> Ibid.

inducing persons to purchase lots is destitute of the truth, and by making the charge the Commissioner has forfeited the character for veracity he may have previously sustained.”<sup>65</sup> The paymaster denied the last charge of using troops to build shanties as well. He stressed the fact, as Hunt had earlier, that as a staff officer he had no authority to authorize the use of troops for the purposes Manypenny detailed. Maclin concluded his remarks by stating, “my happiness does not depend upon the success or failure of the town of Leavenworth.”<sup>66</sup> He went on to make an emotional appeal to the Secretary of War concerning Manypenny’s suggestion to remove the squatters from Delaware territory. “[T]he idea of turning out of house and home, in the midst of cold weather, without any other arrangements for their protection and comfort, several thousand families, is shocking to humanity, inconsistent with the action of the government for many years.”<sup>67</sup> The fact that the squatters violated the Delaware Treaty was seemingly of no consequence to Major Maclin.

Captain Ogden was the last to respond to Manypenny’s charges. Like Hunt and Maclin before him, Ogden first challenged the character of Commissioner Manypenny before denying the accusations against him. Regarding the charges as a whole, Ogden remarked, “They are so utterly destitute of the smallest admixture of the truth, that I can do little else than meet them with a flat and unwaived

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<sup>65</sup> Maclin to Howe, 1 November 1854 in House Executive Document 50, 33<sup>rd</sup> Cong., 2d sess., serial 783, 81. Maclin’s response went to Major Howe, the acting post commander, in lieu of Lieutenant Hudson.

<sup>66</sup> *Ibid.* See also Miner and Unrau, *The End of Indian Kansas*, 112. Miner and Unrau attribute this remark to Ogden, but the evidence shows this was Maclin’s opinion.

<sup>67</sup> Maclin to Howe, 1 November 1854 in House Executive Document 50, 33<sup>rd</sup> Cong., 2d sess., serial 783, 82. For an interesting perspective on how some perceived the government’s actions against settlers in the Leavenworth vicinity, see “Leavenworth Founded in 1854,” *Leavenworth Times*, 19 October 1910, in “Clippings,” KSHS. According to the article, “the poor settler who had reclaimed them [the lands around Fort Leavenworth] from the wilderness was robbed by the greed and avarice of government officials under the gossamer cloak of the rights of the poor Indians.”

contradiction.”<sup>68</sup> Ogden did, however, admit his and Maclin’s membership in the Leavenworth Association, even if it was only a “small and subordinate interest.”<sup>69</sup> He also defended his and other claimants’ actions based on two circumstances. First, the claims made on Delaware trust lands were made two months before publication of the Delaware Treaty in Kansas. Second, speculators and squatters made their claims under the presumption that the preemption law of 1841 was applicable. In other words, ignorance of the law or treaty terms was his excuse for the preemption actions taken by the Association and other squatters in the area. The Attorney General’s August 1854 opinion regarding the inapplicability of the 1841 preemption law was not known until three months later.<sup>70</sup>

In his rebuttal, Ogden also admitted that he sympathized with the squatters. He explained how the Association had cleared the town site by hiring citizens at high wages and through the purchase of necessary materials from Association funds. Captain Ogden concluded his remarks by questioning Manypenny’s motives, asking if they were really based on the Commissioner’s “sympathy for the poor Delawares?”<sup>71</sup> Manypenny was also a land speculator, but the evidence suggests that his motives were pure in his defense of the Delaware.<sup>72</sup> Ogden’s contempt for Manypenny’s charges, however, was not satisfied with simply an attack on the

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<sup>68</sup> Ogden to Hudson, 3 November 1854 in House Executive Document 50, 33<sup>rd</sup> Cong., 2d sess., serial 783, 83.

<sup>69</sup> Ibid. Contrary to Ogden’s comments, H. Miles Moore said Ogden was “one of the most prominent and active members of the Town Company.” See H. Miles Moore, *Early History of Leavenworth City and County* (Leavenworth, Kansas: Samuel Dodsworth Book Company, 1906), 24. Evidently the War Department did not care to look beyond the officers’ replies in its investigation of Manypenny’s charges.

<sup>70</sup> Ogden to Hudson, 3 November 1854 in House Executive Document 50, 33<sup>rd</sup> Cong., 2d sess., serial 783, 83.

<sup>71</sup> Ibid, 84.

<sup>72</sup> See Manypenny, *Our Indian Wards*, xiiin



Commissioner. He also volunteered his personal views of the Delaware themselves. Ogden falsely characterized them as a "combination of insatiable speculators and land-sharks."<sup>73</sup> Like Hunt and Maclin, Ogden completed his reply by admonishing Manypenny to regulate the abuses of his own department instead of those of others.<sup>74</sup>

Once all three officers submitted their letters, the fort's adjutant forwarded them to the War Department for evaluation. Prior to Secretary Davis's final decision on the matter, Commissioner Manypenny was afforded the opportunity to reply to the officers' statements. In his subsequent letter to McClelland, Manypenny stood by his earlier accusations of misconduct. But in his 20 January 1855 letter, he added his condemnation of Captain Hunt as well. Manypenny stressed that he had levied no charges of inappropriate behavior against Hunt in his original complaint, but was convinced of the Captain's duplicity by tone of his gratuitous denials. Based on Hunt's response, Manypenny believed the onus of responsibility for the "unlawful attempts to settle the Delaware Trust land" fell squarely on the Captain since he was the commanding officer. Perhaps the most disappointing action taken by Captain Hunt was the impression he gave Missourians that the town site of Leavenworth was "off the military reserve and on Delaware land." This perception coupled with his statement that he could not interfere with activities on Delaware lands was most onerous to the Commissioner.<sup>75</sup> These statements, Manypenny believed, encouraged illegal settlement on Delaware lands by insinuating that the military would pursue a policy of non-interference when it came to settlers making claims. The

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<sup>73</sup> Ibid, 83.

<sup>74</sup> Ibid, 84.

<sup>75</sup> Manypenny to McClelland, 20 January 1855 in House Executive Document 50, 33<sup>rd</sup> Cong., 2d sess, serial 783, 87.

Commissioner cited this action as the beginning of the lawless conduct by the accused officers at Fort Leavenworth and “at this point ... the most thorough investigation should be had.”<sup>76</sup>

The Commissioner reiterated the fact that Maclin and Ogden were not just passive members of the Leavenworth Association. They were active trustees as indicated by their names on an advertisement for town lot sales. The alleged removal of squatter F. Hawn from his claim by military troops in the presence of Major Maclin for the benefit of the Leavenworth Association was also reemphasized as a particularly heinous act. The most important wrong according to Manypenny concerned what amounted to obvious conflict of interest activities. The basic concern for Manypenny was the belief that these two officers who “were placed at this important post to protect the rights of the Indians and preserve the peace on the frontier, ..., [but] admit[ted] themselves to have participated in proceedings which, in the opinion of the Attorney General, are unlawful.”<sup>77</sup> Manypenny concluded by stating that he would be powerless to do his job if military officers were allowed “to excite rebellion” against the laws and treaties of the government and the opinions of the Attorney General.<sup>78</sup> And it was this issue that challenged the fundamental purpose for which Manypenny believed the army existed.

After reviewing the evidence presented against Major Maclin, Captain Hunt, and Captain Ogden, Secretary Davis saw no reason to discipline the officers based on Manypenny’s charges against them. Davis pointed to the “intemperate spirit” of the

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<sup>76</sup> Ibid.

<sup>77</sup> Ibid.

<sup>78</sup> Ibid.

charges by Manypenny as one reason for his decision not to pursue disciplinary action. He accepted all three officers' denial of wrongdoing at face value without seeking any additional evidence or opinions on the matter. He supported Hunt's refusal to remove squatters. The Captain did not have the authority to remove them without proper orders from the War Department or without instructions from the President. And orders of that nature were not forthcoming.<sup>79</sup>

In order to understand fully Davis's decision to defend Maclin and Ogden against Manypenny's charges, it is necessary to look at the Secretary's personal motives for doing so in context of his military experiences and beliefs. Most of Davis's biographers have credited him with being the most capable and best-qualified Secretaries of War during the nineteenth century.<sup>80</sup> His credentials included a West Point education, frontier experience in the regular army, volunteer experience during the Mexican-American War, and the chairmanship of the Senate Committee on Military Affairs. While exceptionally well qualified, historians have not fully explained some of the difficulties Davis encountered as Secretary. Most point to his feud with General Winfield Scott as the most significant challenge to his leadership, but others cite his feud with Commissioner Manypenny was a close second. Yet historians have not thoroughly explained Davis's relations with the latter individual.<sup>81</sup>

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<sup>79</sup> David to McClelland, 3 February 1855 in Senate Executive Document 50, 33<sup>rd</sup> Cong., 2d sess., serial 752, 28-32.

<sup>80</sup> Cf. One notable exception was John Muldowny, "The Administration of Jefferson Davis as Secretary of War." Ph.D. diss., Yale University, 1959.

<sup>81</sup> For more on Davis as Secretary of War see Hudson Strode, *Jefferson Davis* (New York: Harcourt, Brace, and Company, 1955), 245-295; Clement Eaton, *Jefferson Davis* (New York: The Free Press, 1977), 12-20, 81-88; Robert M. Utley, introduction to *The Papers of Jefferson Davis*, ed., Lynda Lasswell Crist, vol. 5 (Baton Rouge: Louisiana State University Press, 1985), v-x; William J. Cooper, *Jefferson Davis: American* (New York: Alfred Knopf, 2000), 269; and William E. Dodd, *Jefferson Davis* (New York: Russell and Russell, 1966), 130-150.

Additionally, Davis did not handle criticism particularly well, especially inter-agency criticism. Davis saw his role as a cabinet official as a position of unquestioned trust placed in him by President Pierce. Secretary Davis saw an accusation against him as an accusation against the President's judgment. Given his sensitivities to external criticism, understanding of military culture, and loyalty to his department and friends, Davis's decision to defend Maclin and Ogden against the Commissioner's charges was understandable.<sup>82</sup>

Davis's political agenda may have been another cause for his defense of the Leavenworth officers. Unquestionably, the slave-owning Mississippian Davis preferred Kansas to be a slave territory.<sup>83</sup> The membership of the Leavenworth Association was largely pro-slavery, although free-state men were members as well. A staunchly pro-slave Leavenworth would serve southern interests and Davis was not reluctant to use his office to defend those interests. Major Maclin was definitely a pro-slave advocate, but Captain Ogden was believed to have free-state leanings.<sup>84</sup> Regardless of the differences in their political views, Ogden and Maclin, like most of the other Association members, were primarily motivated to make money. Political concerns were certainly important. And Davis was aware of the advantages of having the Leavenworth town site controlled by pro-slavery advocates. His contempt for

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<sup>82</sup> Dodd, *Jefferson Davis*, 25.

<sup>83</sup> Muldowny, "Administration of Jefferson Davis," 1.

<sup>84</sup> For an example of Ogden's alleged free-soil proclivities see, "Nebraska Convention at St Joseph," *St Louis Republican*, 1 February 1854, 2. See also, Skaggs, "Military Contributions," 34. Skaggs cited a newspaper editor named Robert Kelley who claimed "Ogden used his position as an instrument for the importation of abolitionists and free-soilers into the new territory." Sackfield Maclin was an alleged slaveholder and he later fought for the Confederacy during the Civil War. See "When Slaves Were Owned in Kansas By Army Officers," *Leavenworth Times* 13 October 1912, KSHS.

Manypenny, however, proved to be a greater, although not exclusive, motive for his decision.<sup>85</sup>

But perhaps the most important comment made by Davis concerning Maclin and Ogden dealt with the officers' right to speculate. In his concluding remarks, Davis cited Manypenny's charge that "they have been engaged with other speculators and squatters in effecting the settlement of the lands ceded by the Delaware Indians, and establishing a town site and selling town lots." Davis responded with what amounted to a defense of the officers and their right to speculate as long as it did not "lead to the neglect of their public duties." The War Department, according to Davis, "does not attempt to advise or control in the private and pecuniary affairs of officers; to prohibit or permit investments in public or private lands."<sup>86</sup> Davis further stated, "As to the right of Majors Ogden and Maclin to acquire an interest in the town lots near Fort Leavenworth, or in preemption claims on public lands, it is clearly a matter beyond the official authority of this department. They have, in such cases, the ordinary rights of citizens—no more or less."<sup>87</sup> As far as Davis was concerned the case against Maclin and Ogden was closed. Unfortunately for Davis and the army, events at another territorial fort in Kansas raised the issue of inappropriate conduct by military officers engaged in land speculation yet again.

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<sup>85</sup> For Davis's sensitivity to Manypenny's meddling into War Department affairs see Davis to Pierce, 16 December 1854 in *The Papers of Jefferson Davis*, ed. Lynda Lasswell Crist, vol. 5 (Baton Rouge: Louisiana State University Press, 1985), 94-95 and Davis to McClelland, 27 January 1855 in *The Papers of Jefferson Davis*, ed. Lynda Lasswell Crist, vol. 5 (Baton Rouge: Louisiana State University Press, 1985), 99-101. For insight into Davis's understanding of the political significance of Leavenworth see David R. Atchison to Davis, 24 September 1854 in *The Papers of Jefferson Davis*, ed. Lynda Lasswell Crist, vol. 5 (Baton Rouge: Louisiana State University Press, 1985), 83-85. See also Dobak, *Fort Riley*, 133.

<sup>86</sup> Davis to McClelland, 3 February 1855 in Senate Executive Document 50, 33<sup>rd</sup> Cong., 2d sess., serial 752, 31.

<sup>87</sup> Ibid.

### Land Speculation—Fort Riley

The War Department began construction of Fort Riley in 1853. Fort Leavenworth's very own Major E.A. Ogden supervised the construction. The fort's purpose, like others in the frontier regions of the country, was to protect settlers along the Oregon Trail and to keep the peace in the territory. But once the fort was completed it too became a likely location for speculative activity. The primary motivation for land speculation centered on the establishment of what would become the Pawnee town site, located a short distance from the fort on the left bank of the Kansas River.<sup>88</sup> The territorial Governor, Andrew H. Reeder, intended to relocate the territorial capital from Fort Leavenworth to the new town of Pawnee after Jefferson Davis said it would be inappropriate to house the territorial government on a military reservation. Reeder offered no objection and seemed pleased to relocate the capital away from the Missouri border and pro-slavery influence. While Reeder's motive for going to a remote site like Pawnee may have been politically motivated, the Governor also sought to profit personally from the change in venue.<sup>89</sup>

With visions of wealth surrounding the anticipated location of the new territorial capital to the Fort Riley area, officers and local civilians around the fort formed the Pawnee Association on 27 September 1854. The post commander, Brevet Lieutenant Colonel William R. Montgomery, became the president of the new association and virtually every officer assigned to Fort Riley became a member. While on detached service to Fort Riley, Ogden joined the Pawnee Association as

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<sup>88</sup> William A. Dobak, *Fort Riley and Its Neighbors: Military Money and Economic Growth, 1853-1895* (Norman: University of Oklahoma Press, 1998), 136.

<sup>89</sup> Henry Shindler, "Kansas First Capitol was at Ft. Leavenworth," *Leavenworth Times*, 9 October 1911 in Leavenworth County Clippings, vol. 2, 135-138, KSHS.

well, thus expanding his speculative interests to two areas of Kansas.<sup>90</sup> But the optimism of quick wealth through timely land speculation soon gave way to controversy and ultimately a court-martial for Lieutenant Colonel Montgomery in December of 1855.

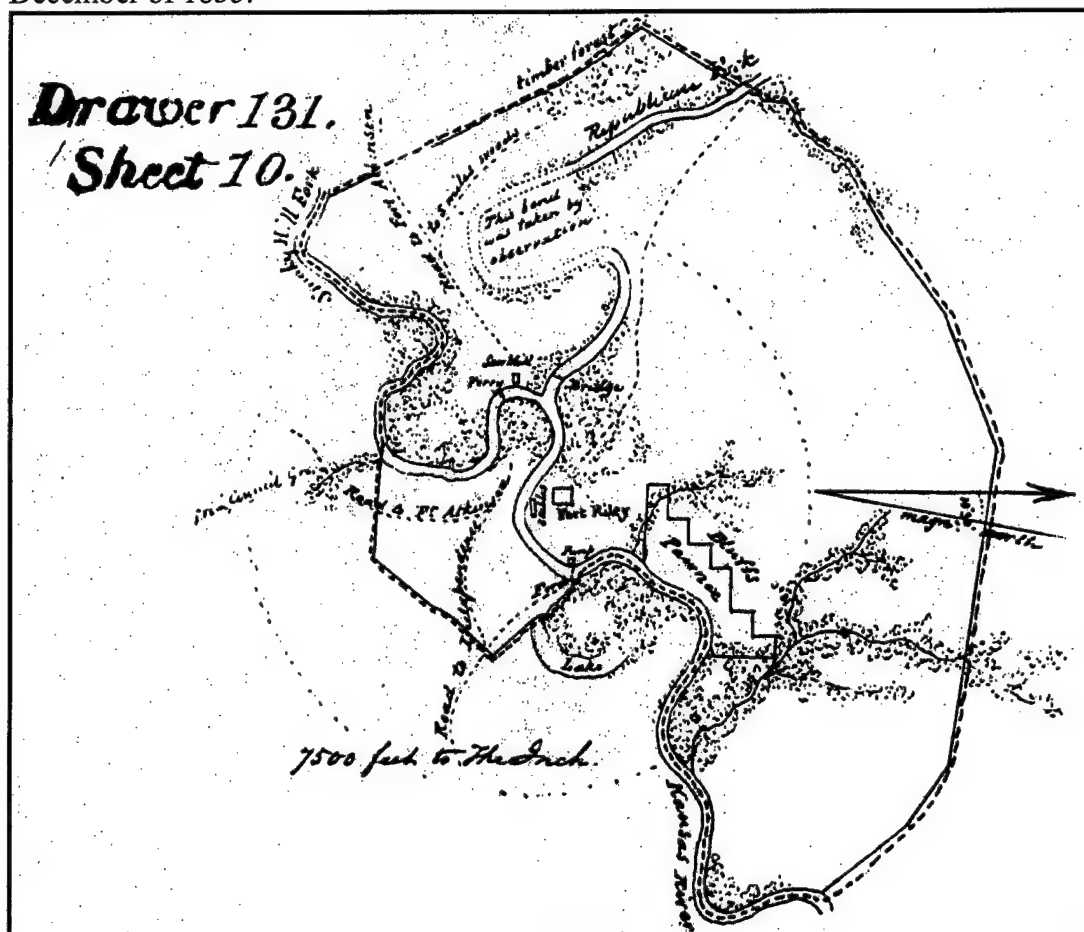


Figure 7, Fort Riley, 1855<sup>91</sup>

Much like Major Maclin and Major Ogden had at Fort Leavenworth, Lieutenant Colonel Montgomery and all the other military officers of the Pawnee

<sup>90</sup> "The Territorial and Military Combine at Fort Riley," in *Transactions of the Kansas State Historical Society, 1901-1902*, ed. George W. Martin, vol 7 (Topeka: W.Y. Morgan State Printer, 1902), 367-368. See also Dobak, *Fort Riley*, 132-142 for additional details surrounding the establishment of Fort Riley and the story of the Pawnee Association.

<sup>91</sup> Map courtesy of KSHS.

Association saw no inherent conflict of interest in their land speculation activities. Like their Leavenworth counterparts, they too saw opportunity to supplement their incomes and pursued that opportunity as American citizens. Unlike the Leavenworth controversy, however, there were no Indian titles or claims to consider in the Fort Riley vicinity. Indian title to that land had been extinguished long ago.<sup>92</sup> So why then was Brevet Lieutenant Colonel Montgomery dismissed from the army for conducting activities not too dissimilar from those of Maclin and Ogden? Were there political motives? Was Montgomery a victim of being at the wrong place at the wrong time? Did ethnocentrism or the fact that Indian lands were not involved make a difference? Or did Major Montgomery, as post commander and senior line officer, violate internal military guidelines concerning accountability and public trust? The specifications of Major Montgomery's court-martial pinpoint the issues surrounding his dismissal and provide insight into the differences between his actions and those of Maclin and Ogden.

The first specification of Montgomery's court-martial cited his misuse of authority. Specifically, the charge said he had no authority to "allow and authorize certain individuals to occupy and take possession of 400 acres more or less within the limits of said reservation, for a townsite, and for that purpose did engage with them to exclude it from the reservation."<sup>93</sup> The specification elaborated on Montgomery's

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<sup>92</sup> Ogden to Thomas Jessup, 23 February 1855 in Senate Executive Document 68, 33<sup>rd</sup> Cong., 2d sess., serial 756, 2.

<sup>93</sup> General Orders, No 20, War Department, Adjutant General's Office, 10 December 1855 as transcribed by Henry Shindler, 4 February 1911 in Forts History Collection, Box 5, MSS, KSHS. Shindler's transcript provides the basics of the Montgomery Court-martial. The complete copy of the court-martial can be found in William R. Montgomery's General Court Martial Case File, HH566, RG 153, National Archives and Record Administration. Unfortunately the author did not have access to the full proceedings of the court-martial but Shindler's summary met the needs of this particular paper. A Colonel Mansfield served as the presiding officer over Montgomery's court-martial that convened at



intent as a member and president of the Pawnee Association to use the appropriated land to establish the town of Pawnee, sell shares, “and otherwise make profit and gain for himself and his associates in the said Pawnee Association, by the appropriation of the said military reservation.”<sup>94</sup>

The genesis of this charge stemmed from a second survey, or resurvey, Montgomery ordered for Fort Riley in December of 1854. Like Hunt’s survey of Fort Leavenworth, the War Department charged Montgomery to delineate the limits of the reservation to prevent confusion and illegal claims on federal property. Both surveys were to limit the military reserve to the amount of territory that was necessary to maintain the fort’s operations and no more. Efforts to reduce the size of military reservations went back to 1848 when Secretary of War Marcy dictated the use of ten miles square for forts established on the Oregon Trail.<sup>95</sup> Responding to Department of the West orders to survey Fort Riley’s reserve in March of 1854, Montgomery approved a reservation in June 1854 whose dimensions were to be established at 18 miles by 10 miles square.<sup>96</sup>

Before completing the survey, however, Montgomery received a request from six citizens, soon-to-be charter members of the Pawnee Association, to exclude 320 acres of land from the military reserve for the purposes of a town site to be called Pawnee. Montgomery granted the citizens’ request and amended the original survey order in December 1854 to ensure the requested town site acreage did not fall within

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Fort Leavenworth in July 1855. Other notable members of the court-martial board included Robert E. Lee and Albert Sidney Johnston.

<sup>94</sup> General Orders, No 20, Forts MSS, KSHS.

<sup>95</sup> W.L. Marcy, 29 January 1848 in Senate Executive Document 68, 33<sup>rd</sup> Cong., 2d sess., serial 756, 3.

<sup>96</sup> Orders No 84, HQ Fort Riley, KT, 14 June 1854, Forts MSS, KSHS.

the Riley reserve. Montgomery justified the change to his superiors to meet the needs of the “present and prospective commerce wants of the citizen community, now rapidly locating in this vicinity, and ... [because the location of the town site] is unessential (sic) to the requirements of this command.”<sup>97</sup> While Montgomery’s reasoning to change the reservation boundaries was justifiable, the fact that he was ultimately both the president of the Pawnee Association which requested the exclusion and the post commander who had the authority to grant the exclusion rendered his decision a clear cut case of a conflict of interest.

The second specification against Lieutenant Colonel Montgomery was for deceit associated with his actions as post commander. When Captain Nathaniel Lyon completed the amended survey, Montgomery forwarded the revised plat of the military reservation in April 1855 with the change allowing for the Pawnee town site. Montgomery also forwarded the Kansas citizens’ 4 September 1854 exclusion request to the Department of the West as part of his justification for the reduction. Lastly, Montgomery said he reduced the reservation because the original reserve “was much more extensive than absolutely necessary.”<sup>98</sup>

The significance of Montgomery’s statements lie at the heart of the deceit charge levied against him. The board concluded that Montgomery intentionally submitted “a deceptive and false coloring to his account ... of his own position and motives in reducing the military reserve.”<sup>99</sup> By claiming reduction of the reserve was an act for the public good, Montgomery had given the impression that his actions

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<sup>97</sup> Wilson et al to Montgomery, 4 September 1854, Forts MSS, KSHS and Montgomery to Wilson et al., 20 September 1854, Forts MSS, KSHS.

<sup>98</sup> Montgomery to Winship (sic), 20 February 1855, Forts MSS, KSHS.

<sup>99</sup> General Orders, No 20, Forts MSS, KSHS.

were based on his concern for the public through disinterested official judgment. The board determined otherwise noting Montgomery's failure to mention his position as president of the Pawnee Association in his official reports. As a result, the board found Montgomery guilty of deceit.<sup>100</sup>

The third specification was closely related to the second. In addition to reducing the original reserve, the court-martial board accused Montgomery of using his position to exempt a specified number of acres from the military reserve for various members of the Pawnee Association. More specifically, he allotted "80 acres of land for Gov. A.H. Reeder, 80 acres for one Robert Wilson [Fort Riley Post Sutler], 40 acres for Dr Hammond [Fort Riley Assistant Surgeon] and 40 acres for Ine(?) Hutter."<sup>101</sup> Once again the board believed Montgomery was deceitful because his actions were advantageous to his speculation interests.

The last charge against Montgomery, like the first, dealt the gross abuse of authority. More specifically, the board charged Montgomery with wrongfully using his authority as post commander to forcibly remove squatters from land claimed by one of the post's employees. The post's wagonmaster, P.G. Lowe, had preempted lands within the military reservation based on the original 14 June 1854 survey order. When a squatter and suspected whiskey peddler named Thomas Dixon and his brothers moved near Fort Riley, they staked a claim on Lowe's property. The Dixons accused Montgomery of coercing them to compensate Lowe or to vacate Lowe's

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<sup>100</sup>General Orders, No 20, Forts MSS, KSHS.

<sup>101</sup>General Orders, No 20, Forts MSS, KSHS. See also "The Territorial and Military Combine at Fort Riley," in *Transactions of the Kansas State Historical Society, 1901-1902*, ed. George W. Martin, vol. 7 (Topeka: W.Y. Morgan State Printer, 1902), 368 for a breakout of the Pawnee Association membership.

claim. The Dixons supposedly paid Lowe \$225 for his claim, but on 1 March and 6 April 1855 Montgomery reportedly sent soldiers to the Dixon claim, first to force them to leave, and secondly to destroy their dwellings. The board believed Montgomery's actions were primarily motivated to aid his and the Pawnee Association's quest to acquire more land for speculation and not to rid the reserve of whiskey sellers as Montgomery had insisted.<sup>102</sup>

Lieutenant Colonel Montgomery pled "not guilty" to all of the specifications against him. The court-martial board, however, found him guilty of all four specifications of conduct unbecoming an officer and a gentleman. Jefferson Davis and President Pierce approved the board recommendations for dismissal. On 8 December 1855 William R. Montgomery "ceased to be an officer of the Army."<sup>103</sup>

The court-martial board's verdict appears to be reasonable given the available evidence. Montgomery did order a re-survey of the fort to exclude the Pawnee town site and to include the Dixon claim that allowed him to remove them legally. But the board's decision begged the question as to why other officers who had engaged in

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<sup>102</sup> General Orders, No 20, Forts MSS, KSHS. See also "Taking the Census in 1855," in *Transactions of the Kansas State Historical Society*, ed. George W. Martin, vols. 1 and 2 (Topeka: Kansas Publishing House, 1881), 230 for more details surrounding the Dixon incident. This account says the 160 acres claimed by Dixon was located near the projected town site. Dixon's claim was also on land desired by Governor Reeder. To accommodate Reeder's desire, the reserve was resurveyed to exclude the town site but to include the Dixon claim in order to give justification to Montgomery to have Dixon legally and forcibly removed from property within the reserve. For a different version of the original survey of the military reservation see "Kansas Experiences of Lemuel Knapp" in *Transactions of the Kansas State Historical Society*, ed. George W. Martin, vols. 1 and 2 (Topeka: Geo W. Martin, Kansas Publishing House, 1881), 206-209. Knapp said the original survey conducted by Captain Lyon excluded Pawnee City, but was extended to induce certain Irish families near Three-Mile Creek to move. Knapp contended that Pawnee was always located outside of the military reserve. He moved to Pawnee in December 1854 and completed a house there on 4 March 1855. It would later be destroyed in November 1855 by the military under orders to reestablish the military reserve to the "original" lines delineated by Major Montgomery in June of 1854. For insight from P. G. Lowe on the Pawnee Association and the military involvement see Lowe to Martin, 17 February 1901 in Forts-Riley Collection, MSS, KSHS.

<sup>103</sup> General Orders, No 20, Forts MSS, KSHS.

land speculation and who had either directly or indirectly used their position as military officers to further their personal financial well-being were not court-martialed as well. And more importantly, what did the outcome of both cases say about the internal history of the officer corps and the process of professionalization prior to the Civil War?

At first glance the evidence suggests a glaring contradiction between the two cases. Given the earlier definition of land speculation, it is without question that Maclin, Ogden, and Montgomery were speculators. There was no evidence to suggest that any of the officers intended to settle on the property they claimed. But land speculation in and of itself was neither illegal nor unethical in context of the 1850s. So under what circumstances did land speculation become a questionable activity for army officers? According to Jefferson Davis it was when speculation led "to the neglect of their public duties."<sup>104</sup> Davis apparently saw no such neglect by his defense of Maclin and Ogden, but the court-martial board did with Montgomery. But why did the War Department see a difference between how Montgomery had behaved and how Maclin and Ogden had participated in land speculation? There are several possible explanations. Davis's personal and political motivations offer one plausible explanation. The circumstances surrounding each situation, such as timing and Indian land concerns, offer another. But the most significant and most logical explanation for the contradiction focuses on the internal military issue of accountability associated with command responsibility.

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<sup>104</sup> Davis to McClelland, 3 February 1855 in Senate Executive Document 50, 33<sup>rd</sup> Cong., 2d sess., serial 752, 31.

One historian has offered political motivation as a reason for Montgomery's dismissal.<sup>105</sup> The evidence to support this claim, however, was mostly circumstantial.<sup>106</sup> But there was enough conjecture to question Davis's motives in defending Ogden and Maclin while cashiering Montgomery.<sup>107</sup> Historians have accepted the fact that Davis was a pro-slavery proponent and that he would have preferred Kansas to become a slave state.<sup>108</sup> Given Davis's political views, his removal of Montgomery becomes more suspect because he was known to be a free-state supporter and colleague of Governor Reeder, also described as a free-state proponent. The coincidence of Montgomery's court-martial trial in July 1855 and President Pierce's decision to remove Reeder from office ostensibly for land speculation that same month raised the specter of political intrigue.<sup>109</sup> Davis was well aware of the political implications his decisions would have on Kansas's future, but he left no conclusive evidence that political motives were his primary reasons for the decisions he made concerning Montgomery, Maclin, and Ogden. As a West Point graduate and regular army officer, Davis possessed a solid understanding of what was expected from commanders as well as from line and staff officers. As professional military officers, Montgomery, Ogden and Maclin were supposed to be apolitical. Under the organic law governing the territory, military personnel could not vote. But in reality both officers and government civilian employees were likely to be

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<sup>105</sup> Dobak, *Fort Riley*, 133-138.

<sup>106</sup> See House Report 200, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., serial 869, 35-36. There were accounts of Montgomery's behavior that implied his support of the free state cause during the territorial elections.

<sup>107</sup> See Muldonwy, "Administration of Jefferson Davis," 1-2 for comments on Davis's "impartiality" while serving as Secretary of War.

<sup>108</sup> See Cooper, *Jefferson Davis*, 269.

<sup>109</sup> The territorial legislature had also sent a memorial to Washington asking Pierce to remove Reeder from the governorship.

concerned with an individual's position on the all-important question of politics. Knowing if one was "sound on the goose" became the paramount question of the day.<sup>110</sup> Political motivation was undoubtedly a factor in both cases, but Davis had no qualms about protecting Major Ogden, a free-state proponent, while cashiering the free-state oriented Montgomery. So if political motivation by itself was not enough to explain Davis's actions, what other factors contributed to the final outcome?

The chronology of the events leading up to the court-martial suggests another possible explanation—bad timing. Perhaps Major Montgomery found himself in the unfortunate position of being the second person to be accused of wrongdoing. After Davis exonerated Maclin and Ogden from any inappropriate conduct involving the Leavenworth Association, he simply could have been frustrated with the Montgomery situation following so closely on the heels of the Leavenworth case.<sup>111</sup> Perhaps the Secretary was compelled to take action against Montgomery to prevent future outbursts of charges of inappropriate conduct. Again the evidence does not support this explanation as the primary motivation, but the timing of Montgomery's removal does pique one's interest.

The role of Native Americans and racial bias offers another possible explanation for the differences between the two cases. Was Montgomery court-martialed because the charges against him were limited to crimes either for the benefit of whites or against white settlers in the Fort Riley region? There was no

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<sup>110</sup> See McNamara, *Three Years*, 24 for a description of "gooseology." If one was "sound on the goose" then he was a pro-slavery advocate. If one did not know what that meant then he must have been a free-state supporter by default. Dobak has pointed out that Davis may have harbored a grudge against Montgomery from their days at West Point.

<sup>111</sup> Dobak, *Fort Riley*, 139-140.

controversy over Indian title in the Pawnee Association's town site as there was with the Leavenworth Association. Did the fact that the Leavenworth controversy essentially pitted white settlers' claims against Delaware treaty rights give it less importance in the eyes of the War Department? The evidence is not conclusive, but there were indications of racial bias in the officers' descriptions of the Delaware and in their defense of the "poor" settlers who had staked claims to Delaware lands.<sup>112</sup> Like political motivation and bad timing, racial bias or ethnocentrism was present but more study and additional evidence is needed to further understand the influence racial bias might have played.

Although tempered by political concerns and circumstances unique to the Pawnee case, the best explanation for Montgomery's court-martial concerned his position as post commander. As a line officer and as the Fort Riley post commander, the War Department held Major Montgomery to a higher standard of conduct. Given the greater responsibilities and greater authority associated with command, Montgomery was also more accountable for his actions than Maclin and Ogden. Of the fourteen officers who belonged to the Pawnee Association, only Brevet Lieutenant Colonel Montgomery was charged with conduct unbecoming an officer. The primary circumstance that separated Montgomery from the other officers involved in land speculation was the fact that only he had the authority and responsibility to establish the boundaries of the Fort Riley military reservation and to direct the re-survey in December. Additionally, only Montgomery could legally

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<sup>112</sup> Maclin to Howe, 1 November 1854 in House Executive Document 50, 33<sup>rd</sup> Cong., 2d sess., serial 783, 81 and Ogden to Hudson, 3 November 1854 in House Executive Document 50, 33<sup>rd</sup> Cong., 2d sess., serial 783, 83.



authorize the use of force to remove the Dixons from their claim albeit legally if the claim fell within the limits of the military reserve. While there were other line officers who were Pawnee Association members, they were responsible and accountable to the post commander, Lieutenant Colonel Montgomery. Had Montgomery not been the post commander or had he been a staff officer at Fort Riley it was unlikely he would have been charged with inappropriate behavior let alone court-martialed.

But Montgomery was the commander. And within the military culture of the day, he alone bore *official* responsibility for his actions and the actions of those in his command. But what about the other officers involved in land speculation at Fort Riley? Secretary Davis remarked,

The Department cannot pass without notice the conduct of the other officers of the army who engaged in the Pawnee Association to establish a town upon the military reserve at Fort Riley. If they had *no official responsibility* in the case, they have much to reproach themselves for in influencing the commanding officer to take the step which has involved him in such difficulties.<sup>113</sup>

Secretary Davis's comment made a clear distinction between Montgomery's official responsibility as post commander and the other officers' unofficial obligation to conduct themselves properly. Although there was no monocausal explanation for the action Davis took against officers engaged in land speculation, it was Montgomery's position that ultimately set him apart from all other officers involved with either the Pawnee or the Leavenworth Association.

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<sup>113</sup> Henry Shindler, "Kansas First Capitol was at Ft. Leavenworth," *Leavenworth Times*, 9 October 1911 in Leavenworth County Clippings, vol 2, 141, MSS, KSHS.

Within the context of military culture in the 1850s, therefore, no contradiction existed between Montgomery's case and the charges of misconduct levied against Maclin and Ogden. As far as Davis and the War Department were concerned the latter were merely exercising their right to speculate. Montgomery, on the other hand, violated the public trust invested in him by misusing his position as post commander to enhance his own personal financial ambitions. While this explanation may have been clear and acceptable explanation to the military, civilians, like George Manypenny, could not see a significant difference between the two cases. To the uninitiated in military affairs and traditions, a military officer was just that, an officer.

Regardless of which, if any, of the above explanations for the apparent contradiction in the handling of charges of unbecoming conduct by officers engaged in land speculation is fitting, the implications for the professionalization of the army officer corps were clear. The army's officer corps had indeed matured since the early days of the American Revolution, but there were still signs of adolescence and immaturity within the profession of arms. The ambiguity raised by the call to public duty while pursuing private gain through land speculation created an unnecessary tension between the army and those it was sworn to protect and defend. This tension was no more obvious than in the case involving Major Maclin and Captain Ogden with the Leavenworth Association and the case of Major Montgomery with the Pawnee Association.

In the final analysis and despite the serious accusations of improper conduct made by Commissioner Manypenny against both Maclin and Ogden, they were neither court-martialed nor formally disciplined because the Secretary of War said

they had committed no crime. Yet, Montgomery would be dismissed for his role in the Pawnee Association. All three officers were professed land speculators, but only Montgomery was a post commander. As such he bore a heavier burden of responsibility and accountability in the eyes of the War Department than either the paymaster, Major Maclin, or the Assistant Quartermaster, Captain Ogden. But while the army understood and appreciated the differences of responsibility and accountability between line and staff officers, more often than not the surrounding public did not. To them all army officers were public servants responsible for their safety and security on the frontier. If land speculation was considered to be conduct unbecoming an officer for one, then why not for all officers? Only by understanding and appreciating the military culture and traditions of the 1850s associated with command responsibility and accountability could the apparent contradiction between Montgomery's court-martial and Maclin's and Ogden's defense by Jefferson Davis be fully understood.

Regardless of how Davis handled the two situations, it was also clear that army officer involvement in land speculation also hampered the army's overall peacekeeping effectiveness. How could the local settlers, the local Indian peoples, and other government agencies trust the army to enforce laws and treaties impartially when it protected those among its rank and file who violated those very laws? It became impossible, as Miner and Unrau pointed out, to separate "enforcer from citizen."<sup>114</sup> Each officer implicated in land speculation certainly had as much right to speculate as any other American citizen. But did they have the right to enrich

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<sup>114</sup> Miner and Unrau, *End of Indian Kansas*, 110.

themselves because of their positions as army officers? In Lieutenant Colonel Montgomery's case the answer was no. Not because he speculated, but because he had used his position to reduce a federal military reserve to better his own financial status. In Maclin's and Ogden's case, the answer appeared to be yes. As long as officers speculated on Indian lands, the War Department did not see cause for concern.

Commissioner Manypenny and others thought otherwise. In Manypenny's opinion, Maclin and Ogden were assigned to Fort Leavenworth to "protect the rights of the Indians and preserve peace on the frontier."<sup>115</sup> As admitted speculators, Maclin and Ogden had violated the law. Their active participation in the Leavenworth venture had helped rob the Delaware of what was legally theirs. If they could not be punished, and if the army could not be forced to execute the law, then how could it keep the peace in Kansas?

In sum, the conflict of interest between personal gain and professional responsibilities to uphold treaty stipulations placed the federal army in an awkward circumstance. Both government officials and local citizens had expressed their concern and their condemnation over those officer's speculative interests and their duty to uphold and enforce the laws of the United States. Moreover, Ogden's, Maclin's, and Montgomery's activities did little to endear them to the local populations, the Interior Department, or local Native American peoples such as the Delaware.<sup>116</sup> And, perhaps most importantly, they made it more difficult for the army

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<sup>115</sup> "Report of the Secretary of War," Manypenny to McClelland, 20 January 1855 in Senate Executive Document 50, 33<sup>rd</sup> Cong., 2<sup>nd</sup> sess., serial 752, 27.

<sup>116</sup> For an example, see Manypenny, *Our Indian Wards*, 124. In his attempts to enforce treaty provisions regarding the removal of squatters from Delaware lands, Manypenny was consistently

to maintain a perception of impartiality that was necessary for effective peace operations in Kansas.

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frustrated. Instead of cooperation from the army and the local community, "the military became quite indignant, denounced the commissioner, and defended the squatters, and the influence of city lots in Leavenworth (the future great city of the West, as it was called) reached even to Washington, and found favor in the halls of Congress." See also, "Report of the Secretary of the Interior," B.F. Robinson, Indian Agent, Delaware Agency, to Colonel A. Cumming, Superintendent of Indian Affairs, St Louis, 21 September 1855 in House Executive Documents, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., ser. 840, 412. "I," B.F. Robinson, "have experienced a great deal of difficulty in protecting the people of this [Delaware] agency." "I have found it useless to forewarn and threaten legal proceedings." Robinson concluded that "unless remedies of a preventive character are entrusted into the hands of the agent, whereby he may be enabled to expel trespassers who may be found on reserved lands committing waste, large annual appropriations of money will be required in instituting and prosecuting law suits; for in good faith, the government is bound to protect these people." For a local civilian's perspective see, McNamara, *Three Years*, 64. "Officers in the United States army," McNamara complained, "were allowed to wear the uniform while they continued to buy and sell that which belonged to the Indians, and that which belongs to them this day, in the most important section of their country. Oh, shame! Shame!"

## Chapter 5

### **From the “Wakarusa War” to the Dispersal of the Topeka Legislature: Peacekeeping and Command, Control, Communications and Information (C3I) During “Bleeding Kansas”**

This is the most painful duty of my whole life.<sup>1</sup>

—Colonel E. V. Sumner, 1<sup>st</sup> Cavalry

Communication problems made it difficult to deal with the Kansas situation....<sup>2</sup>

—Roy F. Nichols, *Franklin Pierce*

Speculating officers were not the only hindrance to effective peacekeeping operations in Kansas. Other salient concerns, such as command and control of civil and military forces, also limited the government’s ability to maintain peace in the troubled territory. As a general rule, the army’s command and control processes were far too slow to respond in a timely manner to domestic crises west of the Missouri River. This shortfall was all too evident during the era of “Bleeding Kansas.” The growing tensions between free state and pro-slavery factions in Kansas eventually led to a crisis in which the administration was forced to call upon the army to act as peacekeepers. And the need for more effective command and control processes was exacerbated by the political sensitivity of the emerging conflict in Kansas.

The genesis of the crisis can be traced to the passage of the Kansas-Nebraska Act in May of 1854 and its repeal of the Missouri Compromise. As Kansas and Nebraska were opened to settlement, Americans watched developments in Kansas

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<sup>1</sup> Daniel W. Wilder, *The Annals of Kansas* (Topeka: Kansas Publishing House, 1875), 112.

<sup>2</sup> Roy F. Nichols, *Franklin Pierce: Young Hickory of the Granite Hills* (Philadelphia: University of Pennsylvania Press, 1958), 400.

with trepidation and concern over the future of the Union.<sup>3</sup> Coupled with the slavery extension issue, other sensitive political, economic, and social issues complicated American's understanding of events in that volatile territory. As did many contemporary nineteenth-century Americans, modern-day historians have tried to decipher the meaning behind events associated with what became known as "Bleeding Kansas." Without a doubt, the most significant political question of the day was whether Kansas was to enter the Union as a free state or as a slave state. Although this question appeared to be a relatively simple one, the answer was politically divisive and costly in lives and property to those that sought to answer it.<sup>4</sup>

Franklin Pierce's administration was well aware of the political consequences associated with the turmoil in Kansas. As long as violence—real or perceived—reigned in Kansas, the political future of the Democratic Party remained in jeopardy. Stressing its virtue of being the only true "national" party, the Democratic Party leadership sought to maintain its control of the federal government by pacifying the troubled territory as quickly and as painlessly as possible before the 1856 national elections. Unfortunately for Pierce and his party, "Bleeding Kansas" hung like an

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<sup>3</sup> For an example of an individual who disagreed with the popular sovereignty solution see James McPherson, *Battle Cry of Freedom* (New York: Oxford University Press, 1988), 128. "Popular sovereignty was false in principle and pernicious in practice, said Lincoln. Its assumption that the question of slavery in a territory concerned only the people who lived there was wrong. It affected the future of the whole nation." See also, Michael F. Holt, *The Political Crisis of the 1850s* (New York: W.W. Norton and Company, 1978), 192.

<sup>4</sup> Tensions in Kansas were not solely limited to the issue of slavery or slavery extension. "The evidence is clear," David Potter concluded, "that an overwhelming proportion of the settlers were far more concerned about land titles than they were about any other question." See David M. Potter, *The Impending Crisis, 1848-1861* (New York: Harper and Row Publishers, 1976), 202. Without the slavery issue, however, it is doubtful that Kansas would have been such a significant political, social, and economic issue in the 1850s. Other territories experienced the same concerns over land and land titles, but only in Kansas were "armies" formed to aid in the establishment of either a slave state or a free state.

accursed albatross around the Democrats' necks.<sup>5</sup> To help remove this curse, Pierce turned to his Secretary of War and the army for assistance. The military arm was one of the primary means the federal government used to limit or contain the violence in "Bleeding Kansas." If Kansas could be pacified and "law and order" restored, the Democrats could claim a political victory over the upstart Republicans while simultaneously conferring legitimacy upon the established pro-slavery territorial government.<sup>6</sup> If Americans, but especially Northerners, would accept the existing territorial government as the legitimate voice of Kansas's residents, then perhaps the impassioned fears associated with slavery's expansion beyond the Missouri Compromise line might be subdued and the Union maintained.

Using the army to pacify Kansas by enforcing territorial law was extremely problematic for Pierce and the Democrats. If the Pierce administration used federal military force in Kansas to achieve their stated objective of making popular sovereignty work, they risked violating their party's principle of governmental non-interference in territorial affairs.<sup>7</sup> The paradox Pierce and his cabinet faced was difficult to resolve without significant political costs. If Pierce adhered to the true spirit of popular sovereignty and let the "Kansas residents" decide the slavery issue for themselves, the Union could very well dissolve over the outcome. If the beleaguered president chose to use federal military power to make popular sovereignty a realistic alternative to civil war, then he would violate one of the most

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<sup>5</sup> David C. Skaggs, "Counterinsurgency in Bleeding Kansas," *Military Review* 45 no. 2 (Feb 1965), 55.

<sup>6</sup> Holt, *Political Crisis*, 194. "The real division," Holt argued, "was over the legitimacy of the territorial legislature."

<sup>7</sup> For more on the principle of non-interference and the paradox of popular sovereignty see, Morrison, *Slavery and the American West*.



sacred principles associated with the Democratic Party. Numerous factions from within and from without the Democratic Party were already causing problems for the 1856 national election.<sup>8</sup> The Republicans benefited greatly from Democratic miscues in how they handled the slavery extension question, especially in Kansas. The political situation Pierce and his cabinet faced was extremely delicate. The future of the Democratic Party and the Union would be shaped by his decisions on how to use federal power to resolve the Kansas debate.

In context of the political dilemma that Pierce and the Democrats encountered in 1856, it is useful to analyze how the government used the army in territorial Kansas to achieve their stated objective of resolving the slavery extension question through the means of popular sovereignty. Specifically, three questions stand out—how did the Pierce administration control its armed forces, how did it communicate its objectives to the fielded forces in Kansas, and how did the army commanders in the field respond and why? These questions have largely been ignored by political and military historians who have focused more on the effect of military operations rather than explaining how the Pierce administration employed what is known today as commander's intent and how Pierce and his Secretary of War, Jefferson Davis, sought to command the forces in the field and control their actions while conducting politically sensitive peacekeeping operations.

One of the least publicized but one of the most insightful incidents in which commander's intent and Command, Control, Communications, and Information (C3I)

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<sup>8</sup> For more on the political movements of the mid-1850s see, McPherson, *Battle Cry*, 117-144.

concerns associated with “Bleeding Kansas” can be understood was the forced dispersal of the Topeka (Free-State) legislature by Colonel Edwin V. Sumner and elements of his 1<sup>st</sup> Cavalry on 4 July 1856. The Topeka incident is particularly enlightening because it demonstrated many of the frustrations and problems related to the use of military force to achieve domestic political objectives in context of the explosive political climate of the 1850s. Knowing when to use military force and how much to use is problematic in today’s society.<sup>9</sup> The use of army troops to enforce what many in Kansas and even more outside of the territory thought were “bogus” territorial laws was politically dangerous. To use the army to disperse a peaceable assembly of American citizens was completely unacceptable. If Pierce really wanted to make popular sovereignty work without blatantly violating the Democrats commitment to non-interference, why did Colonel Sumner use federal troops under his command to prevent the Free State legislature from meeting in Topeka on that hot, summer day in 1856?

An examination of Colonel Sumner’s understanding of Pierce’s, Davis’s and Governor Wilson Shannon’s intent and an analysis of C3I processes offers one answer. When Colonel Sumner first began moving forces to Topeka on 28 June 1856, he believed unquestionably that his initiative was fully supported by the guidance he had received from those civilian authorities empowered to direct his actions—the President, the Secretary of War, and the territorial governor. Based on piecemeal guidance received since the so-called Wakarusa War of December 1855,

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<sup>9</sup> For current issues, see *The National Security Strategy of the United States of America* (September 2002). See [www.whitehouse.gov](http://www.whitehouse.gov) for more information.

Sumner concluded it was imperative that he deploy federal troops to Topeka to prevent this “illegal legislature” from meeting.<sup>10</sup> The consequences of this decision, however, generated severe political repercussions for the Democrats. Shannon’s actions illuminated many of the difficulties associated with how civilian commanders communicated their intent to their military subordinates and the means by which they had to make those communications.

The proverbial “man in the middle” of the Topeka incident was Colonel Edwin Vose Sumner. Colonel Sumner was a loyal, dedicated yet occasionally irascible officer from Boston, Massachusetts. He received his commission directly from civilian life into the army in 1819 and had served since then with distinction. He was brevetted twice during the Mexican-American War for gallant conduct and served admirably as the military governor of New Mexico in 1852.<sup>11</sup> Based on his credentials and experience, the army could not have chosen a better man to be in charge of federal troops assigned to Kansas. Unfortunately for Colonel Sumner, his vast experience would not serve him well in the politically sensitive and potentially explosive situation that evolved in Kansas between the advent of the “Wakarusa War” in December of 1855 and the convening of the Topeka legislature on 4 July 1856.

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<sup>10</sup> Wilson Shannon to Colonel Edwin V. Sumner, 23 June 1856, *Transactions of the Kansas State Historical Society, Embracing the Fifth and Sixth Biennial Reports, 1886-1888, Together with Copies of Official Papers during a Portion of the Administration of Governor Wilson Shannon, 1856, and the Executive, Minutes of Governor John W. Geary During His Administration, Beginning September 9, 1856, and Ending March 10, 1857*, compiled by F.G. Adams, vol IV (Topeka: Kansas Publishing House, 1890), 422-423. Hereafter cited as *Transactions*. Sumner to Woodson, 28 June 1856, *Transactions*, vol IV, 446. Daniel Woodson to Sumner, 30 June 1856, *Transactions*, vol IV, 447.

<sup>11</sup> Memorandum for Mr. Childs, 29 November 1940, Sumner Family Papers, Manuscript Division, Library of Congress.

The genesis of Sumner's understanding of Pierce's, Davis's, and Shannon's intent began on 1 December 1855 when Governor Shannon first asked for authority to use federal troops.<sup>12</sup> The request came in response to heightened tensions between the Free-State community of Lawrence and the pro-slavery sheriff of Douglas County, Samuel J. Jones. Interestingly Jones also happened to be the postmaster of Westport, Missouri. Tensions between pro-slavery and free state factions in Kansas had intensified on 26 November when Sheriff Jones arrested a free-stater in Lawrence named Jacob Branson. Jones arrested Branson for making vengeful threats against a pro-slavery man named Franklin Coleman. Branson had threatened Coleman because the latter had killed Branson's free state friend, Charles M. Dow, over a land dispute near Hickory Point in Douglas County on 21 November. Sheriff Jones refused to arrest Coleman for the murder and several free state supporters chose to seek justice on their own accord. Once Sheriff Jones heard of Branson's threats against Coleman, he issued a warrant for Branson's arrest.<sup>13</sup>

Shortly after Branson's capture, a group of Free State men "rescued" him from the Sheriff and his posse. The free state men secured Branson in their stronghold of Lawrence. The angered sheriff requested additional manpower from Shannon to execute the warrant against Branson. Sheriff Jones demanded that Shannon to call out the territorial militia and provide him with up to 3,000 troops to aid in the execution of the law. On 27 November, Shannon authorized the designated

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<sup>12</sup> Wilson Shannon to Colonel Edwin V. Sumner, 1 December 1855 in LRAGO, Roll 520.

<sup>13</sup> Garver, "The Role of the United States Army," 566. See also House Report 200, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., serial 869 for more details of the Dow murder.

Kansas militia leadership to commence raising a force to aid the sheriff.

Unfortunately for Shannon, many pro-slavery supporters from Missouri or “Border Ruffians” as the free state press characterized them, also answered the Sheriff’s call for volunteers making the militia a very partisan arm. The citizens of Lawrence responded to the pro-slavery threat by forming their own “Free State” militia. The stage was set for the beginnings of a local civil war if the situation was not diffused quickly.<sup>14</sup> Even more ominous was the possibility of igniting a national political or military crisis if the pro-slavery dominated militia engaged the free state elements in open combat.

Given the partisan nature of the territorial militia, Shannon realized that an encounter between the militia and free state men in Lawrence could lead to greater tragedy.<sup>15</sup> With the likelihood of violence increasing, Shannon undoubtedly sought an alternative means to keep the peace. One of his militia commanders, Brigadier General L.J. Eastin, recommended using the federal troops at Fort Leavenworth. “If you have the power to call out government troops,” Eastin suggested, “I think it would be best to do so at once.”<sup>16</sup> Shannon agreed. He saw the use of “impartial” federal forces as the easiest and the best means to resolve the potential conflict. But did he have the power to call on the army to aid the territorial government in the execution of territorial law? The initial answer was no. But that did not stop Shannon

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<sup>14</sup> Coakley, *Role of Federal Military Forces*, 148 and John H. Gihon, *Geary and Kansas—Governor Geary’s Administration in Kansas: with a Complete History of the Territory until July 1857* (Philadelphia: Chas C. Rhodes, 1857), 53-58.

<sup>15</sup> Wilson Shannon to Colonel Edwin V. Sumner, 1 December 1855 in LAGO, Roll 520.

<sup>16</sup> L.J. Eastin to Wilson Shannon, 30 November 1856 in Gihon, *Geary and Kansas*, 59.

from asking for just such authority from the President who did possess the Constitutional authority to use federal troops to enforce federal law.

In his 1 December 1855 telegram to Franklin Pierce, Shannon specified three reasons for requesting authority to task federal troops: 1) to preserve the peace of the territory; 2) to protect the Sheriff of Douglas county; and 3) to aid in the execution of the legal process.<sup>17</sup> By virtue of his office, Shannon was the commander-in chief of the territorial militia. But, because of what had happened in the Branson case, the governor was reluctant to call on the militia because of its partisan nature. In a letter to Colonel Sumner, the frightened governor told the 1<sup>st</sup> Cavalry commander that he wanted to use federal troops because “they can be controlled, the others [the pro-slavery militia] cannot.”<sup>18</sup> Shannon also informed Sumner in his 1 December dispatch that he had sent a telegram to the President asking for authority to command local army commanders and their forces.<sup>19</sup> The army offered the best means of achieving his local objectives, Shannon argued, namely the maintenance of peace and the prevention of bloodshed between the two rival factions. When “they find that the regular troops can be used to preserve the peace and execute the law in this Territory,” Shannon informed Major General William P. Richardson of the territorial militia, “they [lawless men] will not be so ready to place themselves in a hostile attitude.”<sup>20</sup>

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<sup>17</sup> Shannon to Sumner, 1 December 1855. Woodson Papers. Woodson Collection. KSHS.

<sup>18</sup> Wilson Shannon to Colonel Edwin V. Sumner, 1 December 1855 in LRAGO, Roll 520.

<sup>19</sup> Wilson Shannon to Colonel Edwin V. Sumner, 1 December 1855 in LRAGO, Roll 520.

<sup>20</sup> Shannon to Major General William P. Richardson, 2 December 1855 and Shannon to Sheriff Jones, 2 December 1856, in *The War in Kansas*, by G. Douglas Brewerton, 178-179.

Colonel Sumner was reluctant to honor the governor's request. In his reply, Sumner advised Shannon to make his "application to the government for aid, extensively known at once; and I would countermand any orders that may have been issued for the movement of the militia, until you receive the answer."<sup>21</sup> By informing the public at once of his request for federal intervention, Sumner believed that Shannon could intimidate the rival factions. If pro-slavery and free state elements knew federal troops were about to intervene, they might think twice about using armed force to achieve their respective political objectives. Sumner also believed that the governor had acted too quickly in calling out the territorial militia. The Colonel told the Adjutant General that Shannon should have consulted with Washington before taking any rash action. "He did not telegraph to Washington soon enough;" Sumner lamented to Colonel Cooper, "he ought to have done it before he called out the militia." Had he done so, Shannon could have delayed the crisis or at least removed the perceived legitimacy of the pro-slavery militia by withholding his sanction of their mobilization. "When there are such facilities [telegraph] for communicating with the authorities at Washington," Sumner observed, "I do not think it at all justifiable to act in these highly important matters without orders." Sumner stressed that orders from Washington in lieu of those from a territorial governor "carry with them an (immeasurable) influence that look down all opposition."<sup>22</sup>

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<sup>21</sup> Sumner to Shannon, 1 December 1855, LLAGO, Roll 520.

<sup>22</sup> Sumner to Cooper, 3 December 1855, LLAGO, Roll 520.

Sumner's assessment of Shannon's initial handling of the Wakarusa crisis was quite insightful. He realized the urgent need for political and military coordination with Washington before engaging in military-led peacekeeping activities in Kansas. Unlike the Sioux expedition where General Harney was given specific objectives to accomplish, and where Harney was entrusted to use his own judgment in accomplishing those objectives, uncoordinated decisions by civilian and military leaders in Kansas could generate unwanted consequences. Peace enforcement operations against the Sioux did not require a great deal of coordination once the operation began. But peacekeeping operations in a volatile political environment such as Kansas in late 1855 necessitated centralized control of most political and military activities. The political repercussions of virtually every political decision and every military action in the troubled territory were far too serious to leave to Shannon's discretion. "This is a matter of too much importance," Sumner concluded, "for any one individual to take it upon himself to decide on the course the [federal] government will take."<sup>23</sup>

From Sumner's perspective there was no need for Shannon to act without Washington's approval. The technological means existed for near-real-time communications with key decision makers in the nation's capital. Shannon was certainly not shy about using the "Victorian Internet" to communicate with his superiors. He could have asked for permission to mobilize the militia rather than for forgiveness for doing so after the fact. As long as the telegraph lines between Kansas

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<sup>23</sup> Sumner to Cooper, 3 December 1855, LLAGO, Roll 520.



City and St Louis remained operational, Sumner saw no reason why the command authorities in Washington could not be queried before taken political and military actions in Kansas. But even with a fully operational telegraph network, there were situations that required an immediate response from the governor or other territorial officials. What Shannon and Sumner needed when telegraphic communications were impractical was clear guidance from their superiors that encapsulated what their commander's intent was regarding the use of federal troops in Kansas.

That intent, however, usually came to Shannon and Sumner piecemeal. In response to his 1 December telegraph to the President requesting authority to use federal troops, Shannon did not receive a reply until 4 December. The telegraph lines had gone down between Lexington and Jefferson City. This delay prevented Pierce's 3 December reply from reaching Shannon until the following day. In his response, Pierce stated "the Executive would use all the power at his command to preserve order in the Territory, and to enforce the execution of the laws."<sup>24</sup> Shannon interpreted Pierce's reply as the authority he needed to order Sumner to deploy his troops to the contested area around Lawrence. So concerned was Shannon over the immediate stability of the territory, he asked Sumner to begin the deployment of some 500 troops or more if they were available to exert a "moral influence" over the Lawrence area. Although Sumner probably had not received any orders from Washington when Shannon sent his dispatch to Fort Leavenworth, the Governor insisted that the President would be sending Sumner official orders in "a very short

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<sup>24</sup> Brewerton, *War in Kansas*, 177.

time.”<sup>25</sup> Colonel Sumner’s initial response was to prepare his troops to march to the Delaware Crossing on the Kansas River. He and his troops would rendezvous there with Shannon before commencing operations against the rival factions. After giving the matter more thought, however, Sumner changed his mind. He would not move his forces without official orders from either the President or the Secretary of War in hand.<sup>26</sup> The consequences were just too great to insert federal troops between to hostile camps without higher authority.<sup>27</sup> And federal troops, after all, should only be used as a resort.<sup>28</sup>

As Sumner and Shannon awaited guidance from Washington, another rarely mentioned but related crisis occurred across the Missouri River in Liberty, Missouri. The Liberty Arsenal—located near the town—was a small repository of arms and munitions. During the afternoon of 4 December, a group of some 100 armed men, probably from the pro-slavery Clay County Volunteers, robbed the arsenal under the care of Captain L. Leonard, the military storekeeper.<sup>29</sup> “Resistance was useless,” Leonard reported to Sumner, “and I could only protest against this violent seizure of the Public property.” Leonard believed that the robbers and the arms and munitions

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<sup>25</sup> Shannon to Sumner, 4 December 1855, Woodson Papers, MSS, KSHS and Coakley, *Role of Federal Military Forces*, 148-149. See also Gihon, *Geary and Kansas*, 59.

<sup>26</sup> Sumner to Shannon, 0100, 5 December 1855, LAGO, Roll 520 and Sumner to Shannon, 5 December 1855, LAGO, Roll 520. See also Sumner to Cooper, 6 December 1855, LAGO, Roll 520. Sumner informed Cooper that he was “resolved not to move on this matter till I get orders. No blow has yet been struck but the factions are approaching each other in considerable force.” He concluded his comments to Colonel Cooper with an interesting observation. “Unluckily, the weather is very fine just now, a snow storm would soon cool their [free state and pro-slavery forces] ardor.”

<sup>27</sup> Sumner to Shannon, 7 December 1855, *Transactions*, Vol. III, KSHS, 299.

<sup>28</sup> “Government Troops Ordered Out,” *Richmond (Mo.) Mirror*, 8 December 1855.

<sup>29</sup> See undated letter from J.C. Anderson to Major General Richardson in Brewerton, *War In Kansas*, 184-85.

they stole were on their way to Kansas "to engage in some disturbance said to exist among the inhabitants thereof."<sup>30</sup>

Without any troops to respond to the larceny, Leonard asked Sumner for guidance. Sumner ordered a company of cavalry to go to Liberty under the command of Captain Beall on 6 December. Sumner ordered Beall to take all measures to prevent further depredations. Beall was to work with Captain Leonard to ensure the arsenal was properly protected. If necessary, Sumner expected Beall to protect the government's property "if it costs the last man in your company."<sup>31</sup> Captain Beall arrived at Liberty on 7 December and remained until Christmas.<sup>32</sup> By then the situation in Kansas had subsided and the arsenal no longer needed Beall's protection. Sumner demonstrated no hesitation in responding to an assault of federal property but he was extremely reluctant to commit his troops to peacekeeping in Kansas without appropriate authorization.

Sumner telegraphed the incident to Washington on 6 December. Unfortunately, the message did not leave Weston until the next day. It arrived in Washington on 7 December, but too late to make it to the War Department before it closed for the day. Colonel Cooper finally received Sumner's telegram on 8 December.<sup>33</sup> Sumner's written report to the War Department did not reach the AGO

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<sup>30</sup> Captain Luther Leonard to Sumner, 4 December 1855, LLAGO, Roll 520. According to Leonard's testimony in House Report 200, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., serial 869, 60 the arms and munitions taken from Liberty were used by pro-slavery supporters at Wakarusa.

<sup>31</sup> Sumner to Captain W.W.R. Beall, 6 December 1855, LLAGO, Roll 520.

<sup>32</sup> Beall to Cooper, 8 December 1855, LLAGO, Roll 520 and Beall to Cooper, 25 December 1855, LLAGO, Roll 520.

<sup>33</sup> Sumner to Cooper, 7 December 1855, telegram, LLAGO, Roll 520. Sumner sent another telegram to Cooper on 7 December expressing his need for immediate guidance. "If I am to interpose in this

until 20 December. In his duplicate letter of the incident, Sumner expressed his concern over what he should do regarding the robbery in context of the events surrounding the Wakarusa War. "Under any other circumstances, I should feel it to be my duty to pursue the marauding party at once, and retake the guns, but I cannot do this," Sumner lamented, "without taking sides in this momentous quarrel." Not wanting to show any signs of partiality or favoritism in the Wakarusa crisis, Sumner wisely opted to await orders from the President before taking any action on his own.<sup>34</sup>

As Sumner waited for orders that would never come, Shannon panicked. Without Sumner's full cooperation and with Lawrence under siege by Sheriff Jones and his pro-slavery posse, Shannon had little choice but to try to resolve the potential conflict of arms through negotiation. He successfully concluded a tenuous peace with free state leaders on 8 December.<sup>35</sup> As a result of the agreement, Shannon disbanded the pro-slavery militia the following day. Shannon's actions spared Lawrence from possible destruction without the use of federal troops while lessening tensions for the immediate future. But the governor's brokered peace was not to be a lasting one. At best, even Shannon knew that the truce was a temporary arrangement and that the danger of a reoccurrence was possible.<sup>36</sup> He once again requested

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Kansas difficulty, there is not a moment to be lost in giving me the order." See Sumner to Cooper, 7 December 1855, LLAGO, Roll 520. It is assumed that the telegram was dispatched from Weston since Leavenworth did not have a telegraph office until 1859.

<sup>34</sup> Sumner to Cooper, 7 December 1855, LLAGO, Roll 520.

<sup>35</sup> For a copy of the treaty see, Brewerton, *War in Kansas*, 193-4.

<sup>36</sup> Muldowny, "Administration of Jefferson Davis," 187.

authority from the President to task the army in any future emergencies requiring the use of military force.<sup>37</sup>

President Pierce was reluctant to grant such ominous authority to Shannon. And Colonel Sumner, for one, questioned the governor's motives.<sup>38</sup> Both men agreed that delegating control of federal troops to anyone other than the President was indeed a serious matter. The Constitution had placed strict limitations on how and when the army could be used in domestic situations.<sup>39</sup> Only during the gravest of circumstances should a President willingly delegate the authority to use federal troops to a lesser government official. Pierce had done so to a certain degree in the Anthony Burns affair in Boston when he allowed local Marshals to call upon federal troops to serve as members of a posse comitatus to aid in the enforcement of federal law.<sup>40</sup> From Shannon's perspective, the authority to call upon federal troops was needed because of the time sensitivity of affairs in Kansas. Shannon told Sumner that he would have "no hope of peace except by the aid of the United States forces and I shall suggest to the President the actual necessity of your having orders at all times that will justify you in acting at once without waiting orders from Washington. These

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<sup>37</sup> Shannon to Pierce, 11 December 1855, House Executive Document 1, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., serial 893, 63-4. See also Shannon to Sumner, 11 December 1855, LLAGO, Roll 520. In his letter to Colonel Sumner, Shannon explained to Sumner that he "did not wish your command to fight, but to preserve the peace and prevent an attack on Lawrence. Your merely camping in the town of Lawrence would have guaranteed its safety and relived me from the most intense anxiety."

<sup>38</sup> See Sumner to Cooper, 10 December 1855, LLAGO, Roll 520. In his letter to the War Department, Sumner cautioned Cooper to "observe the remarkable contrast between the Governor's first and last letters. In the first, he wanted my assistance to coerce the people of Lawrence, in the last, to protect them from people that had been collected together by his own proclamation." Sumner would not be the last army officer confused by objectives provided by his civilian leadership

<sup>39</sup> See Chapter One for specific Constitutional restrictions.

<sup>40</sup> See Chapter 4, n180-181.

orders will always be sudden," Shannon remarked, "and before we can hear from Washington the decisive moment will have passed."<sup>41</sup>

In essence, what Shannon wanted was for the president to issue standing orders for the army to respond to his call whenever circumstances dictated. Shannon had learned a valuable lesson from the Wakarusa episode. Time was critical. Even with telegraphic communications, he anticipated situations where neither he nor Sumner could afford to wait for higher headquarters to provide guidance before employing the army to keep the peace. But from Pierce's perspective affairs in Kansas had not yet reached the rather subjective threshold the president used to determine when authority over federal troops could or should be delegated to local federal officials. Perhaps the president was reluctant to delegate authority to Shannon until an actual act of violence had occurred. Or, maybe, Pierce withheld authority from the governor because there was no political pressure from the South or the North to use force to keep Kansas peaceful in late 1855. Regardless of the motive, Shannon was forced to resolve the situation without the benefit of federal troops.

In his 31 December 1855 annual address to Congress, Pierce stressed his reasons for keeping the military power of the federal government out of territorial affairs. He admitted that there had been "acts prejudicial to good order" in Kansas, but "as yet none have occurred under circumstances to justify the interposition of the Federal Executive." Pierce emphasized that only when "obstruction to Federal law or

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<sup>41</sup> Shannon to Sumner, 11 December 1855, LLAGO, Roll 520

of organized resistance to Territorial law, assuming the character of insurrection, which, if it should occur, it would be my duty promptly to overcome and suppress.”<sup>42</sup>

By the middle of January, however, Pierce had changed his mind and his approach to Kansas affairs. On 24 January 1856, Pierce acknowledged for the first time that the use of federal force was necessary to enforce the law and suppress insurrectionary activities within the territory. Pierce’s change in policy was no doubt related to his condemnation of the Free State legislature as a treasonable activity.<sup>43</sup> Following his 24 January speech, Pierce issued an 11 February proclamation that revealed both his frustration with the Kansas problem and his intent to take action. He insisted “all persons engaged in unlawful combinations against the constituted authority of the Territory of Kansas, or of the United States, to disperse and retire peaceably to their respective abodes.” If “unauthorized bodies”—the Free State legislature and the New England Emigrant Aid Society—continued to interfere in the local affairs of Kansas, he threatened the use of local militia and, if necessary, federal troops to maintain the legitimacy of the existing, duly recognized territorial government.<sup>44</sup> With this proclamation Pierce had crossed the proverbial Rubicon regarding the use of federal forces in Kansas. He had also committed the federal government and the Democratic Party to the support of the fraudulently elected pro-slavery dominated territorial legislature. And he had defined the circumstances by

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<sup>42</sup> “Third Annual Message,” 31 December 1855 in Richardson, *Messages and Papers*, Vol. V., 340.

<sup>43</sup> Franklin Pierce, 24 January 1856, in Richardson, *Messages and Papers*, Vol. V, 358. See also Wilder, *Annals*, 90.

<sup>44</sup> Coakley, *Role of Federal Military Forces*, 150. See also Allan Nevins, *Ordeal of the Union*, vol 2, *A House Dividing, 1852-1857* (New York: Scribner’s Sons, 1947), 444 and Wilder, *Annals of Kansas*, 91.

which he would give the territorial governor operational control over federal troops in Kansas. If Pierce and the Democratic Party were to achieve their political objective of making popular sovereignty work in Kansas, they realized that federal power in the form of the army was now necessary to make it happen.

Four days after Pierce's proclamation, Jefferson Davis sent official orders from the War Department to his field commanders in the Kansas territory—Colonel Sumner at Fort Leavenworth and to Lieutenant Colonel Philip St George Cooke at Fort Riley. He provided the following guidance associated with the territorial governor's new authority to command their troops:

If, therefore, the governor of the territory, finding the ordinary course of judicial proceedings and powers vested in the United States marshals inadequate for the suppression of insurrectionary combinations or armed resistance to the execution of the laws, should make requisition upon you to furnish a military force to aid him in the performance of that official duty, you are hereby directed to employ for that purpose such part of you command as may in your judgment consistently be detached from their ordinary duty.<sup>45</sup>

Davis's instructions confirmed Shannon's authority to use Sumner's and Cooke's troops, but they placed distinct restrictions upon what the governor could order them to do with their forces. Under Davis's instruction, Shannon could only request Sumner and Cooke to perform two seemingly limited operations—suppress insurrectionary combinations and respond to armed resistance to the execution of law. Davis's intent was clear, but his written guidance was ambiguous. The purpose of Pierce and Davis's orders was to keep Kansas pacified, to affirm the popular

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<sup>45</sup> Davis to Sumner and Cooke, 15 February 1856 in Senate Executive Document 97, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., serial 823. Garver, "The Role of the United States Army, 571. See also Coakley, *Role of Federal Military Forces*, 150-151; Marvin Ewy, "The United States Army in Kansas Border Troubles, 1855-1856," *Kansas Historical Quarterly* 32 (Winter 1966), 389; and Gihon, *Geary and Kansas*, 72.



sovereignty doctrine espoused in the Kansas-Nebraska Act, and to protect the Democrats. The army, however, was a means of last resort to achieve those objectives. Despite the relative clarity of the objective, significant questions remained. What exactly constituted an “insurrectionary combination” and, perhaps more important, who made that determination?

Davis’s instructions to Sumner and Cooke were further complicated by parallel guidelines sent from the Secretary of State, William Marcy, to Governor Shannon. As Secretary of State, all territories fell under Marcy’s department. In his 16 February letter, Marcy told Shannon that he could demand assistance from either Fort Leavenworth or Fort Riley “in executing [his] duties as governor.” And like Davis, Marcy cautioned Shannon to use federal troops only as a measure of last resort “to insure due execution of the laws and to preserve the public peace.”<sup>46</sup> Marcy’s intent was congruent with Pierce’s and Davis’s, but the scope of Marcy’s guidance was a bit broader than the War Department’s. By stressing Shannon’s authority to use troops in the execution of his duties as governor, Marcy created a situation in which the governor could task the army perform a mission or operation that went beyond the restrictive scope of Davis’s directions. The War Secretary advised his field commanders to consult him if there were any doubts or questions associated with their instructions. But who was the final authority in determining what the federal troops in Kansas could and could not do? In other words, based on the

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<sup>46</sup> Marcy to Shannon, 16 February 1856 in Senate Executive Document 23, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., serial 820, 37-39. See also Wilder, *Annals*, 91; Coakley, *Role of Federal Military Forces*, 151; and Gihon, *Geary and Kansas*, 72.

guidance and military policy that had evolved since the end of 1855, who was in charge of Kansas affairs? Civilian authority or control over the issue was never a real concern, but was the War Department, the State Department, the territorial government, or the President the final arbiter in deciding how the army would be employed as peacekeepers in Kansas?

As long as Kansas remained relatively peaceful and out of the public eye, the issue was moot. But once the calming effects of winter began to fade across eastern Kansas, tensions blossomed as springtime in Kansas neared and the prospects for violence returned to the volatile territory. On 4 March 1856, the Topeka (Free State) Legislature convened. It adjourned on 8 March after completing a petition asking Congress to admit Kansas into the Union as a free state.<sup>47</sup> That same day Colonel Sumner asked the War Department for clarification on what exactly constituted an insurrectionary combination. More specifically, Sumner asked if “all armed bodies, coming either from Missouri or from a distance, north or south, are to be resisted whatever their proposed objects may be, and made to relinquish their military organizations, and pass in to the territory as peaceful citizens.”<sup>48</sup> If this was Davis’s intent, Sumner thought it was a sound policy because it would help keep all armed bodies out of the territory and minimize the opportunity for conflict. But Davis did not intend for the army to disarm all armed bands coming into Kansas. Davis reminded Sumner that

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<sup>47</sup> Wilder, *Annals*, 94.

<sup>48</sup> Sumner to Adjutant General, 8 March 1856, Senate Executive Document 10, 34<sup>th</sup> Cong., 3<sup>rd</sup> Sess., Ser 878, 1-2. See also Coakley, *Role of Federal Military Forces*, 151. Sumner also thought “that any organized military body, now in the territory and not under the law, should be abolished.” See Sumner to Cooper, 8 March 1856, LAGO, Roll 547.

the question as to where the men may come from, or whether armed or unarmed, is not one for the inquiry or the consideration of the commanding officer. It is only when armed resistance is offered to the laws and against the peace and quiet of the territory, and when under such circumstances, a requisition for military force is made upon the commanding officer by the authority specified in his instructions, that he is empowered to act.<sup>49</sup>

The message was clear. Under no circumstances was Sumner to take the initiative to disarm armed bodies without direction from higher authorities. The territorial governor could make such a request, but only if "armed resistance" occurred. There was to be neither a pre-emptive assault nor a concerted effort to interdict potentially hostile persons or groups from entering the territory. Sumner was not authorized to determine who or what constituted an insurrectionary combination. The army was not to be used as a police force, but was only to be used when appropriate civil authorities had exhausted all other options. Civilian control of the military was to remain paramount.

The first test of the War Department's rules of engagement (ROE) for the army in Kansas came on 20 April 1856. Not surprisingly, Sheriff Jones of Douglas County was the main character involved.<sup>50</sup> Jones had entered Lawrence on the previous day hoping to arrest the free state settler Samuel N. Wood for larceny and for his role in the freeing of Branson back in November of 1855. He successfully apprehended Wood. But, as happened with his attempted arrest of Branson, a group of free state men rescued Wood from the clutches of pro-slavery sheriff. Jones,

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<sup>49</sup> Colonel Samuel Cooper, Adjutant General to Sumner, 26 March 1856 in Senate Executive Document 97, 34<sup>th</sup> Cong., 1<sup>st</sup> Sess., Serial 823.

<sup>50</sup> A.W. Reese described Jones as "the corrupt and servile tool of David R. Atchison." See A.W. Reese, "Eyewitness to the Border ruffian invasion in 1855-56," A.W. Reese Manuscript Collection, Box 1, KSHS, 63. For more on Sheriff Jones pro-slavery proclivities see, House Report 200, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., serial 869, 14.

following the established ROE, gathered a posse of civilians and tried once again to arrest Wood and his rescuers. The citizens of Lawrence, however, prevented him from doing so. The sheriff had now met with what he considered to be a violent resistance to the laws of the territory. He requisitioned Governor Shannon "to furnish ... such military force as may be at your disposal."<sup>51</sup> Had Shannon followed Pierce's guidelines exactly, he should have called for the territorial militia to aid Sheriff Jones. But Shannon did not want a repeat of the Wakarusa War. Calling up the militia would do nothing more than bring the two parties into conflict.<sup>52</sup> Instead, he called on Colonel Sumner to provide a small detachment of soldiers to act as a posse comitatus to aid the sheriff. Shannon believed strongly that the physical presence of impartial federal troops would "command obedience to the laws."<sup>53</sup> And "without obedience to the law," Sumner instructed the Mayor of Lawrence, "there is an end to order."<sup>54</sup> And without order there could be no peace in Kansas.

Sumner complied with the governor's request and sent First Lieutenant James McIntosh and ten soldiers to support the sheriff's efforts.<sup>55</sup> On 23 April, Jones, accompanied by McIntosh and his detachment, entered Lawrence to execute the arrest warrants. Wood could not be found, but Jones made six other arrests before evening. With nightfall approaching, Jones decided to remain overnight in Lawrence.

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<sup>51</sup> Jones to Shannon, 20 April 1856, *Transactions*, Vol. IV, KSHS, 408-409. Shannon to Marcy, 27 April 1856, *Transactions*, Vol. IV, KSHS, 405-408.

<sup>52</sup> Shannon to Pierce, 11 December 1855 in House Report 200, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., serial 869, 102.

<sup>53</sup> Shannon to Sumner, 20 April 1856, *LRAGO*, Roll 547. Shannon also cautioned Sumner that "in the use of the United States troops, no personal or party feeling can exist on either side." Sumner replied to Shannon's request in Shannon to Marcy, 27 April 1856, *Transactions*, Vol. IV, KSHS, 405-408.

<sup>54</sup> Sumner to Mayor of Lawrence, 22 April 1856, *LRAGO*, Roll 547.

<sup>55</sup> Sumner to Shannon, 21 April 1856, *LRAGO*, Roll 547. "I trust," Sumner told Shannon, "that it will not be necessary to use violence on this occasion." Sumner displayed once again his reluctance to actually use military force in executing the territorial laws.

He would continue his work again the next day. Unfortunately for the sheriff, he did not have a pleasant night. At about 2200 that evening, an unknown assailant shot Jones while he lay in his tent. The irascible sheriff survived the wound, but the incident motivated Lieutenant McIntosh to inform Sumner of the attempted assassination of a government official. The following day Sumner notified both Shannon and the War Department that he was sending two squadrons of troops to the territorial capital of Lecompton to support the governor's efforts to maintain the peace. But he also urged Shannon not to call on the territorial militia because he felt they would generate further bloodshed.<sup>56</sup>

Sumner arrived at Lecompton on 25 April. After consultation with Shannon, the governor sent a note to Sumner informing him that the majority of his troops were no longer needed since the likelihood of additional arrests seemed unlikely. He did ask the Colonel to provide a detachment of thirty men to remain at Lecompton under his nominal control. Evidently, Shannon wanted to maintain what amounted to a quick reaction force in case of a future emergency. Sumner complied with Shannon's request and left Captain Thomas J. Wood in command of the Lecompton

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<sup>56</sup> Sumner to McIntosh, 22 April 1856, LLAGO, Roll 547. Sumner told McIntosh to "use great circumspection and forbearance, and do not resort to violence if it can possibly be avoided." He expected McIntosh's detachment to relay the government's commitment to "maintain the laws, as they now stand, until they are legally abrogated." Sumner later informed Charles Robinson of his commitment to enforce the laws until they had been "legally abrogated." See Sumner to Charles Robinson, 27 April 1856, LLAGO, Roll 547. Sumner to Shannon, 24 April 1856. See also Telegram, 0900, Sumner to Adjutant General, 24 April 1856, Senate Executive Document 10, 34<sup>th</sup> Cong., 3<sup>rd</sup> Sess., Serial 878, 6 See also *Transactions*, Vol. IV, KSHS, 410. Shannon to Marcy, 27 April 1856, *Transactions*, KSHS, 405-408. McIntosh to Shannon, 30 April 1856, *Transactions*, Vol. IV, KSHS, 418-419.

encampment.<sup>57</sup> But was Sumner's action within the spirit and intent of the President and the Secretary of War's orders? There were neither specifications to pre-deploy forces throughout the territory nor any authorizations to leave federal troops under the personal control of the territorial governor in Davis's previous instructions to Sumner. Perhaps the governor's request seemed to be a logical and appropriate action in Sumner's estimation. And without any countermanding orders from Washington, Sumner undoubtedly assumed his superiors sanctioned his actions. With or without higher headquarters approval, Sumner's decision to leave troops in the field under the governor's control in order to prevent violence had marked a distinctive shift in military policy. As a result of this shift, the army's role was no longer purely reactive. Under Sumner's and Shannon's direction, the army had become more proactive in its mission to suppress insurrectionary combinations and to aid in law enforcement.

The Washington-mandated ROE had seemingly passed its first test. The legally constituted law enforcement officers arrested those indicted that could be found in Lawrence. The tensions and emotions associated with the attempted assassination of Sheriff Jones remained high, but the likelihood of additional bloodshed lessened with the use of federal troops to enforce the law and keep the peace. Some Lawrence citizens were also comforted by Colonel Sumner's "assurances that he would protect Lawrence with his troops should the Missourians

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<sup>57</sup> Shannon to Sumner, 25 April 1856, *Transactions*, Vol. IV, KSHS, 411. Shannon to Marcy, 27 April 1856, *Transactions*, Vol. IV, KSHS, 405-408.

undertake to attack the city.”<sup>58</sup> Despite these assurances, Sumner also counseled the citizens of Lawrence that it was his duty to uphold the law. He had reported the Jones affair to Washington and would follow whatever orders he received from his commanders. In a 28 April telegram to Washington, Sumner asked for additional guidance in dealing with the delicate situation presented by the free state citizens of Lawrence. Colonel Sumner stressed the tendency of the citizens to submit to territorial officers if soldiers attended them. Sumner feared that the Sheriff and other civilian officials who served at the pleasure of the “bogus” territorial legislature could not peacefully serve a writ with a civilian posse. Given the apparent free-state strategy to comply with territorial law only in the presence of federal forces, Sumner queried the War Department if he was to force the citizens of Lawrence to comply with the existing law “at all hazards?”<sup>59</sup>

Shannon echoed similar concerns to the State Department. He described the free state strategy to Secretary Marcy in much the same manner as Sumner had to the War Department. More importantly, he offered a significant observation concerning the very legitimacy of the territorial government. “It will be obvious to the President that, if every officer of the government charged with the execution of the legal process,...,is compelled to call on a military posse of United States troops to aid in

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<sup>58</sup> T. P. Hanscom to Nathaniel P. Banks, 26 April 1856, N.P. Banks Papers, Manuscript Division, Library of Congress.

<sup>59</sup> Sumner to Charles Robinson, 27 April 1856, LAGO, Roll 547. Telegram, Sumner to Cooper, 28 April 1856, LAGO, Roll 547. See also Charles Robinson, *Kansas Conflict* (New York: Harper & Brothers, Franklin Square, 1892), 232-234 for his account of the Jones assassination scenario.

executing the law, that the territorial government will be practically nullified.”<sup>60</sup> As far as Shannon was concerned, blame for the recent territorial turmoil rested squarely in the shoulders of the free state contingent in Lawrence. Moreover, he pointed to the ongoing migration of free state settlers as cause for concern since those recent emigrants—in Shannon’s eyes—seemed determined to “provoke a civil war.”<sup>61</sup> And if these free staters continued to resist the officially recognized government of the territory, how could Shannon and the other territorial officials function as legitimate government officials?

Before Washington had a chance to respond to those questions, events, which culminated in the infamous sack of Lawrence on 21 May 1856, overshadowed any administrative change in military or political policy or procedure. Prior to the attack on Lawrence, the Douglas County grand jury had indicted two key free state leaders, James Lane and Charles Robinson, for high treason.<sup>62</sup> The grand jury also suggested that the Free State Hotel and two free state newspapers in Lawrence be abated as well since they were considered nuisances to the public peace. Moreover, the District Court had issued a writ for the arrest of former territorial governor Andrew Reeder for failure to appear before the grand jury. When Deputy Marshal, W. P. Fain, tried to arrest Reeder in Lawrence, Fain reportedly met resistance in doing so. Once the Deputy Marshal apprised Marshal Donalson of the situation, he reacted by issuing a proclamation on 11 May calling for the “aid of a strong body of men sufficiently

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<sup>60</sup> Shannon to Marcy, 27 April 1856, Senate Executive Document 17, 35<sup>th</sup> Cong., 1<sup>st</sup> Sess., Serial 923. See also Sumner to Cooper, 28 April 1856, LLAGO, Roll 547.

<sup>61</sup> Shannon to Marcy, 27 April 1856, Senate Executive Document 17, 35<sup>th</sup> Cong., 1<sup>st</sup> Sess., Serial 923

<sup>62</sup> “Evidence of the Grand Jury,” 29 March 1856, *Transactions*, Vol IV, 411-13.



large to invest the town.”<sup>63</sup> More significantly, Donalson did not requisition the governor for support but raised his own posse by the authority vested in his position as U.S. Marshal.

In his letter of explanation describing the details of the sack of Lawrence to the President, Shannon explained that had Donalson asked him for a posse, as had been the procedure in earlier situations, he would have provided the Marshal with a military posse composed of exclusively federal troops.<sup>64</sup> But Shannon did not interfere with the pro-slavery Marshal’s prerogative to raise his own force. Nor did he call on Colonel Sumner to deploy troops from Fort Leavenworth to Lawrence to protect the town as several citizens of Lawrence had requested immediately following the Marshal’s edict.<sup>65</sup> All free state requests for protection went unheeded. When asked for troops to protect Lawrence, Colonel Sumner directed the citizens’ request to the governor since “it was left to [him] to decide when the troops should come out.”<sup>66</sup> Shannon tried, perhaps half-heartedly, to comfort the distraught free staters. He explained that they had nothing to fear as long as they complied with the law. There were no “guerilla bands” approaching Lawrence as the free staters had

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<sup>63</sup> (Donalson) Proclamation, 11 May 1856, *Transactions*, Vol. IV, KSHS, 392. See also Gihon, *Geary and Kansas*, 78.

<sup>64</sup> (Donalson) Proclamation, 11 May 1856, *Transactions*, Vol. IV, KSHS, 392. C.W. Topliff et al to Shannon, 11 May 1856, *Transactions*, Vol. IV, KSHS, 393. Gihon, *Geary and Kansas*, 78. See also Charles Robinson, *Kansas Conflict*, 243.

<sup>65</sup> Sumner to Cooper, 28 May 1856, *Transactions*, Vol IV, KSHS, 437. “If the matter had been taken in hand at an earlier day, as I earnestly advised the Governor, the whole disturbance could have been suppressed without bloodshed.”

<sup>66</sup> Sumner to Shannon, 12 May 1856, LAGO, Roll 548. Citizens of Lawrence to Sumner, 12 May 1856, Senate Executive Documents, Document 10, 7-8. See also Citizens of Lawrence to Shannon and Donalson, 17 May 1856, *Transactions*, Vol. IV, KSHS, 397-8. Just four days prior to the assault on Lawrence, the town’s citizens had offered to turn over their arms in return for protection by United States troops.

claimed. The only force approaching Lawrence was the legally constituted posse of the Marshal and the Sheriff.

While Sumner had refused the free stater's request for troops, he attempted to ameliorate the situation by forwarding some suggestions to Shannon that could have prevented the sacking of Lawrence. Without Shannon's prior authorization, however, the army was basically useless as a peacekeeping force given the primacy of civilian control. Sumner advised the governor on 12 May to requisition a "large and commanding force." If Shannon positioned this force between Lecompton and Lawrence, the Colonel wholeheartedly believed that it would repress any future outbreak of violence. Despite the logic and utility of Sumner's advice, the Colonel probably did not expect Shannon to follow his recommendations. On the same day he wrote the governor, Sumner sent a letter to the War Department that more fully revealed his concern over command and control responsibilities in the developing situation in Kansas. Sumner reported that Shannon was "evidently desirous of availing himself to the regular troops, as the only means of preserving the peace, but," the Colonel surmised, "he does not think proper to assume the responsibility of *controlling* them under civil officers, by taking it upon himself to decide, what kind of posse they shall use."<sup>67</sup> And there was the crux. Since Sumner could only respond to tasking from his designated civilian authority, he could not legally take action on

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<sup>67</sup> Sumner to Shannon, 12 May 1856, LLAGO, Roll 548 and Sumner to Cooper, 12 May 1856, LLAGO, Roll 548. See also Citizens of Lawrence to Shannon and Donalson, 17 May 1856, *Transactions*. Vol. IV, KSHS, 397-398 for another request to use federal troops to protect Lawrence.

his own accord. His guidance from the War Department on that point was fairly clear.

Sumner was a loyal and dutiful soldier. Even though he had analyzed the situation properly and he had recommended a reasonable course of action to his civilian master, American law and civil-military traditions constrained Sumner to obey his civilian master. Shannon, as he had demonstrated in April, possessed the will, the power, and the authority to use impartial federal troops to prevent violence. But on the eve of the first sacking of Lawrence, Shannon opted, contrary to his earlier policies, to allow Marshal Donalson and Sheriff Jones to use obviously partisan forces to maintain law and order. He would not interfere with the pro-slavery Marshal's authority to form his own posse despite the political implications.

Sumner's advice to Shannon went unheeded until 21 May when the governor asked for three companies to be positioned near the three main communities associated with recent events—Topeka, Lawrence, and Lecompton. By then, of course, it was too late to prevent the sacking of the free state community.<sup>68</sup> Some 500-700 Missourians and pro-slavery supporters had joined Donalson's posse by 21 May.<sup>69</sup> They entered Lawrence rather peaceably on the morning of 21 May. The free staters offered no resistance to the federal Marshal's overwhelming force. Donalson conducted his business without incident and, when his work was complete, the Marshal disbanded his posse. That afternoon, however, Sheriff Jones made his

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<sup>68</sup> Lieutenant James McIntosh to Sumner, 21 May 1856, LAGO, Roll 548. McIntosh told Sumner that he believed Shannon intended to place the area around Lawrence under military control after the Marshal had served his warrants.

<sup>69</sup> James Legate to Charles Sumner, 20 May 1856, in E.L. Pierce Collection, KSHS. Legate estimated between 600-700 men including the "Platte County Rifles" with two cannon.

way in to Lawrence and many of the "disbanded" posse entered with him under the auspices of territorial authority. Jones, perhaps sensing an opportunity for revenge for the earlier assassination attempt, ordered the Free State Hotel as well as the two newspaper offices destroyed in accordance with the grand jury's abatement recommendation from 5 May.<sup>70</sup> At some point during the destruction, the home of Free State "Governor" Charles Robinson met the same fate as the hotel. By the time the sack of Lawrence was complete, federal forces had begun their deployments to Lawrence, Topeka and Lecompton.<sup>71</sup>

Before Pierce had received word of the sack of Lawrence, he expressed concern over comments he had heard about the composition of Marshal Donalson's posse assembling in Lecompton. Perhaps events in Washington on 22 May motivated Pierce to ascertain the political and military situation in Kansas before anything else went wrong. The day before Pierce telegraphed Shannon about his concerns, Representative Preston Brooks of South Carolina took it upon himself to restore Senator A.P. Butler's (Brooks uncle) and the South's besmirched honor by severely caning Senator Charles Sumner of Massachusetts for his anti-slavery speech of 19-20 May.<sup>72</sup> That week accounts of "Bleeding Sumner" dominated the nation's newspapers.<sup>73</sup> And the last thing Pierce wanted ten days before the Democratic convention in Cincinnati was more negative press.

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<sup>70</sup> For more on Jones's motivation, see Philo Tower, *Slavery Unmasked* (Rochester: E. Darrow & bro., 1856), 424. "'D\_\_n the Union," Jones remarked, "We have gone in for peace long enough. We have got the law and the authorities on our side, and we will take that town [Lawrence]."

<sup>71</sup> Potter, *Impending Crisis*, 208-209.

<sup>72</sup> Tindall, *America*, 623.

<sup>73</sup> McPherson, *Battle Cry*, 149-150 and Potter, *Impending Crisis*, 209-211.

The emerging Republican Party, on the other hand, anxiously awaited any opportunity to take advantage of a Democratic faux pas. Between Brook's caning of Sumner and the pro-slavery assault on Lawrence, the Republicans did not have to look far for political ammunition to attack the ruling party. From the Administration's perspective, the caning of Senator Sumner was unfortunate. Pierce and the Democratic Party could not be held responsible for Representative Brooks's actions over a matter of honor. In regard to territorial affairs, on the other hand, Pierce and the Democrats were accountable. Since Pierce had appointed Shannon and because the governor served at the president's pleasure, Pierce possessed the power and authority to do something to improve the situation in Kansas.

In his first 23 May telegram to Shannon, Pierce—still unaware of the 21 May assault on Lawrence—asked the governor if military force was necessary to maintain the civil government in Kansas? If so, the President wanted to know if Shannon had relied “solely upon the troops under the command of Colonels Sumner and Cooke?” And lastly, Pierce wanted to know the reasons for not using federal troops, if Shannon had intended to do so. The President reminded Shannon of his duty as the chief executive of the territory to execute the law. But Pierce reiterated earlier guidance that he was not to use military force until after the Marshal had met “actual resistance.”<sup>74</sup> In other words, the peacekeeping ROE had not changed, but neither had Pierce's immediate political objectives of keeping the Democratic Party united and making popular sovereignty work.

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<sup>74</sup> 1<sup>st</sup> Telegram, Pierce to Shannon, 23 May 1856, *Transactions*, Vol. IV, KSHS, 414.

Before Pierce's wire had left Washington, the president fired another cable to Shannon after Davis presented Sumner's 12 May letter to him. After reading Sumner's letter outlining his recommendations to Shannon to deploy forces to prevent violence, Pierce found Sumner's suggestions "wise and prudent." Moreover, with Sumner's 1<sup>st</sup> Cavalry available, Pierce saw no reason why the Marshal would have reason to assemble a civilian posse to execute territorial laws. Furthermore, Pierce reminded Shannon in his second telegram that he had been given sufficient power in the form of the army to maintain the peace of the territory and that he "must use it."<sup>75</sup> The onus for peace in Kansas was clearly in the hands of Wilson Shannon whether he wanted it or not.

Secretary Davis also sent a note to Kansas in response to Sumner's 12 May letter. But his correspondence was of a congratulatory nature. "You have justly construed your instructions," Davis told Sumner, "and your course is approved." He complimented Sumner on his "zeal" in preserving order and preventing civil strife in Kansas. Davis told Sumner that he had "properly refused to interpose the military power of the United States, except under the circumstances and conditions contemplated in your instructions."<sup>76</sup> Whether or not this letter signaled a change of War Department policy is debatable. But Davis's endorsement of and Pierce's blessing of Sumner's preventative strategy certainly left the impression that Shannon was free to deploy federal troops anywhere throughout the territory he so chose. This

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<sup>75</sup> 2<sup>nd</sup> Telegram, Pierce to Shannon, 23 May 1856, *Transactions*, Vol. IV, KSHS, 414.

<sup>76</sup> Davis to Sumner, 23 May 1856, *Transactions*, Vol. IV, KSHS, 425.

apparent modification to the Kansas ROE would prove critical in understanding why Colonel Sumner dispersed the Topeka legislature in July.

Shannon did not receive Pierce's 23 May telegrams until 31 May, eight days after they were sent from Washington. Delays caused by inoperable lines between St Louis and telegraph offices proximate to the Kansas border contributed to the communications lag. In Shannon's 31 May letter regarding the sack of Lawrence and the resulting Pottawatomie Creek massacre, the governor continued to express his doubts over his authority to implement Sumner's preventative strategy. He had ordered Sumner to send troops to Lawrence, Lecompton and Topeka, but only after the Marshal had made his arrests on 21 May.<sup>77</sup> He also told Sumner to provide additional troops on 27 May because of the heightened tensions associated with recent events.<sup>78</sup> But Shannon was still reluctant to believe that it was within his purview to deploy or position federal troops in anticipation of hostilities between free state and pro-slavery forces. Even with Pierce's blessing of Sumner's strategy in the

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<sup>77</sup> Shannon to Pierce, 31 May 1856, *Transactions*, KSHS, 414-418. Shannon to Sumner, 21 May 1856, LAGO, Roll 548. See also 1<sup>st</sup> Lieutenant James McIntosh to Sumner, 21 May 1856, LAGO, Roll 548. McIntosh, who was on alert with his detachment near Lecompton per the governor's earlier request, told Sumner that he believed that the governor's intention was, "as soon as the Marshal succeeds in making his arrests (which will probably be by this evening) to place this portion of the territory under strict military police, and I think strong measures will have to be taken to prevent outrages." McIntosh's assessment, of course, turned out to be quite accurate. Had Shannon deployed additional troops before the Marshal entered Lawrence, perhaps he could have precluded the "outrages" that did occur once Sheriff Jones reassembled the Marshal's posse for his own purposes. Sumner ordered Major John Sedgwick to march to the requested areas at 0800 on 23 May, but it was too late to prevent the sacking of Lawrence. See Sumner to Sedgwick, 22 May 1856, LAGO, Roll 548.

<sup>78</sup> Shannon to Sumner, 27 May 1856, LAGO, Roll 548. Shannon issued the request in response to word of the Pottawatomie Creek massacre of 24 May. Sumner sent two more companies in response to Shannon's request. See Sumner to Shannon, 28 May 1856, LAGO, Roll 548.

second 23 May telegram, Shannon told the President that he could countermand the deployments without any serious harm if they did not meet Pierce's approval.<sup>79</sup>

By the end of May, Shannon had unquestioned authority to use federal troops to prevent violence and keep the peace in Kansas. Despite his authority, Shannon continued to suffer from a responsibility complex. Even after the sacking of Lawrence and the Pottawatomie Creek incident, Shannon hesitated to use the full force of the army to keep the peace. By 28 May, Sumner informed the War Department that the nature of the conflict in Kansas had changed. Guerilla warfare now dominated the troubled territory. The complexion Kansas affairs had changed for the worse. Shannon's failure to act decisively and forcefully had contributed to the unfortunate events of May, but there were other issues that further complicated security matters in the territory. Sumner asked the War Department: What if Brigadier General William S. Harney, Commander of the Sioux expedition, asked for troops from Fort Leavenworth or Fort Riley to support his peace enforcement operations against the Sioux and Governor Shannon says no?<sup>80</sup> How would the army promote peace, order, and security in Kansas if it was out of the territory chastising recalcitrant Indians?

These questions could not be answered at the local or Department of the West level. They needed to be sorted out by higher authorities in Washington. (See Diagram A) From the army's perspective, the questions forced Pierce and Davis to further clarify their objectives or at least prioritize them in order to establish a clear

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<sup>79</sup> Shannon to Pierce, 31 May 1856, *Transactions*, Vol. IV, KSHS, 414-418.

<sup>80</sup> Sumner to Cooper, 28 May 1856, LLAGO, Roll 548.



chain of command in Kansas affairs. If pacifying Kansas was more important than punishing the Sioux or the Cheyenne, then Shannon should have greater operational control concerning troop usage. But if the Indians presented the greater threat, then Harney should exercise more control than the territorial governor. No definitive decision was made until 16 July when Davis denied Harney's request to use 1<sup>st</sup> Cavalry troops to patrol the Oregon Trail.<sup>81</sup> In the interim, Sumner continued to respond to Shannon's orders, but remained confused over what he should do if Harney forced the issue. By the time Davis had countermanded Harney's orders to deploy elements of the 1<sup>st</sup> Cavalry along the Oregon Trail, Sumner was already en route to Syracuse, New York to begin an extended leave.

Shortly after he had received Pierce's 23 May telegrams, Shannon decided that he had to do more to reduce the escalating violence in Kansas. Sumner's preventative strategy of deploying small detachments of troops at key locations had been generally successful in keeping hostile persons out of the territory. Unfortunately there were simply not enough troops in Kansas to police the entire territory effectively. Sumner's forces had successfully disarmed and disbanded both free state and pro-slavery contingents when they could find them, but there were just too many of them to completely pacify Kansas. Violent engagements between free state units and pro-slavery forces—like those that occurred at Black Jack in Douglas County on 2 June—prompted Shannon to issue his own proclamation calling for the

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<sup>81</sup> Cooper to Harney, 16 July 1856, *Transactions*, Vol. IV, KSHS, 429. See also Shannon to Sumner, 23 June 1856, *Transactions*, Vol. IV, KSHS, 422-423. "The peace and quiet of the Territory," Shannon told Sumner, "is certainly vastly more important than any object to be accomplished by General Harney."

dispersal of all military organizations that resisted the execution of the laws in Kansas.<sup>82</sup> But Shannon made some significant qualifications in his 4 June edict. He explained to Colonel Sumner that his proclamation was not “applicable to citizens organized into military bodies under the law and legally called out (the Marshal’s or sheriff’s posses), or to those who, in good faith, have associated themselves together merely to repel a threatened attack on themselves or property, and not for any aggressive act.”<sup>83</sup> In essence Sumner was to assume that emigrants entering Kansas were law-abiding citizens until they had committed an illegal or insurrectionary act. Shannon was hesitant to deny American citizens their right to self-defense regardless of the impossibility of determining an emigrant’s intention when he entered the territory. Shannon was apparently sensitive to the Administration’s determination to prevent what might be called sectional profiling of inbound emigrants, especially those from Missouri.<sup>84</sup> But what Shannon’s caveat did not explain was how Sumner was to determine who was to be disarmed and who was not. Shannon’s exceptions were potentially dangerous because they allowed armed bodies of men to maintain

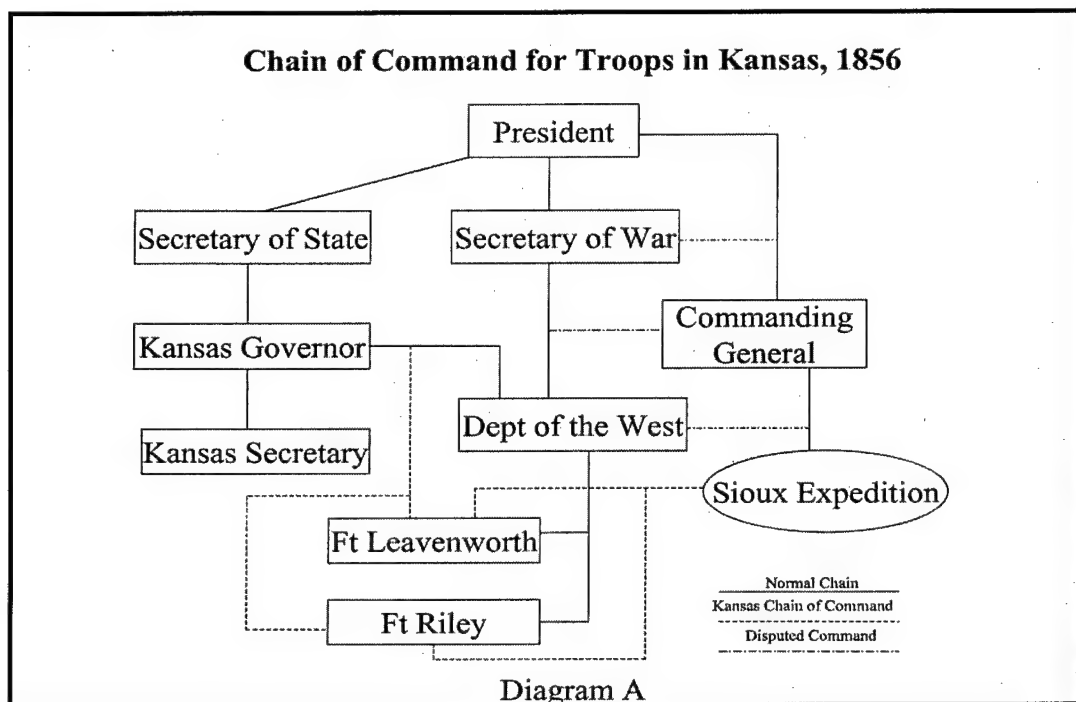
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<sup>82</sup> “Proclamation by the Governor of Kansas,” in Shannon to Sumner, 4 June 1856, LAGO, Roll 548. For details of Shannon’s planned deployment of federal troops, see Shannon to Sumner, 4 June 1856, LAGO, Roll 548. See also O.E. Leonard to Friends, 6 June 1856, Oscar E. Leonard MSS, Vol 2, 1853-1856, Kansas Collection, University of Kansas Libraries. For more on the Battle of Black Jack, see Gihon, *Geary and Kansas*, 88.

<sup>83</sup> Shannon to Sumner, 4 June 1856, LAGO, Roll 548. See also, Gihon, *Geary and Kansas*, 90. Kansas was not the only area of the United States experiencing internal disorder. On the same day Shannon issued his proclamation, Governor J. Neely Johnson of California called up the state militia to suppress insurrectionary activities conducted by the San Francisco vigilante committee. Since Johnson did not have to worry about his actions being construed as pro-slavery or free state oriented, as did Shannon, his actions were less significant in the eyes of the national press. But because Johnson was a state governor he was unable to requisition supplies and support from the local Army commander, Major General John E. Wool to support the needs of the militia under the command of William T. Sherman. See Johnson to Wool, 4 June 1856, LAGO, Roll 545 and Wool to Johnson, 5 June and 9 June 1856, LAGO, Roll 545.

<sup>84</sup> See Davis’s comment on not referring specially to Missourians in Cooper to Sumner, 26 March 1856, LSAGO, Roll 18.

their weapons. Militarily, it made more sense to disarm everyone regardless of his or her motives and political beliefs. Politically, Shannon's caveat was more palatable because it did not violate the constitutional right for Americans to keep and bear arms.



#### Notional Command and Control Diagram

Two days after Shannon's 4 June proclamation, an anxious Pierce sent another message to Shannon asking for information on Kansas affairs. He had not yet received acknowledgements of the 23 May telegrams nor had he heard from Colonel Sumner. The President stressed his confusion over what was going on in Kansas in his letter. Evidently, Shannon's 31 May response to Pierce's telegrams had not yet reached the President. Pierce was particularly concerned over the use and

amount of federal troops in the territory. And he asked Shannon to let if know if he needed more forces to maintain order.<sup>85</sup>

While Pierce and the nation awaited additional news from the territory, Congress took the initiative and offered various proposals to resolve the violence in Kansas. The basic strategy of the so-called Crittenden Resolution of 10 June, for example, was to send the army's Commanding General, Lieutenant General Winfield Scott, to Kansas with virtual dictatorial powers to bring peace to the beleaguered territory. "He is the man of all the nation," Senator Crittenden proclaimed, "just and impartial, and of known character for integrity, for impartiality, and for justice."<sup>86</sup> The commander of the victorious forces over Mexico and the man who had demonstrated his ability to bring peace to troubled areas seemed to be a logical choice to impose peace and order in Kansas.<sup>87</sup> For the Democratic leadership, however, sending Scott to Kansas was simply out of the question. Davis, for one, hated "old Fuss and Feathers."<sup>88</sup> He undoubtedly resented the suggestion that Scott could handle military affairs in Kansas better than he could. Pierce too could not in good conscience send Scott to Kansas. How could he stomach sending a Whig to Kansas, especially one he had defeated for the presidency in 1852? Moreover, he most likely

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<sup>85</sup> Pierce to Shannon, C/O Sumner, 6 June 1856, *Transactions*, Vol. IV, KSHS, 421.

<sup>86</sup> Crittenden Resolution, *Congressional Globe*, 34<sup>th</sup> Congress, 1<sup>st</sup> Session, 1381-1395.

<sup>87</sup> The *Caroline* affair of 1837 was one example of Scott's ability to keep the peace in a turbulent area. See Tindall, *America*, 533-4.

<sup>88</sup> Davis's aversion to Scott can be traced back to his experiences in the Mexican-American War. See Cooper, *Jefferson Davis*, 145-6 and 252.

resented Congressional interference in what was an executive branch concern.<sup>89</sup> It was the president's duty to enforce the law and he would use all means at his disposal to bring peace and order to the troubled territory.

In response to the Crittenden Resolution, Davis offered a rather interesting counterproposal in a cabinet meeting on 16 June. He suggested that the army should be withdrawn from the territory altogether. The residents of Kansas could resolve their concerns without army interference and the army could do what it was established to do—punish recalcitrant Indians like the Cheyenne and protect vital lines of communication to the west. Davis's argument was seemingly congruent with Pierce's original policy of federal non-interference in territorial affairs, but the president had long ago abandoned that principle. Pierce rejected Davis's proposal and opted to maintain his present course. He was now firmly committed to resolving the Kansas issue with military force.<sup>90</sup> How much force and when it was to be used remained undetermined.

While the national leadership debated the fate of the territory, Shannon and Sumner pursued a preventative strategy that did not fall within the parameters of Davis's guidance, but which offered a very practical solution to stopping the violence in Kansas. Representative of this strategy, Sumner informed the Department of the West in Saint Louis and the War Department on 23 June 1856 that he had stationed

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<sup>89</sup> Crittenden Resolution, *Congressional Globe*, 34<sup>th</sup> Cong., 1<sup>st</sup> Sess., 1381-1395. See Roy F. Nichols, *Franklin Pierce: Young Hickory of the Granite Hills* (Philadelphia: University of Pennsylvania Press, 1958), 474 and Johnson, *Battle Cry of Freedom*, 226.

<sup>90</sup> Nichols, *Franklin Pierce*, 474. For Shannon's views on Davis's suggestion to withdraw the troops from Kansas, see Sumner to Shannon, 23 June 1856, *Transactions*, vol IV, 423. Other options included the Toombs Bill and futile attempts by the House to admit Kansas as a Free State. See Nichols, *Franklin Pierce*, 475-476 and Rawley, *Race and Politics*, 154-157.

five companies near the pro-slavery community of Westport, Missouri. Sumner explained his intent to “indicate plainly to all that the orders of the President and the proclamation of the Governor will be maintained.”<sup>91</sup> Sumner’s show of force operation was clearly outside the parameters of Pierce’s and Davis’s earlier guidelines. Civilian authorities did not take the lead in dispersing these armed bands entering Kansas from Missouri nor had resistance to the execution of the law been encountered. But since Pierce and Davis were apparently pleased with the results of these preventative operations, there was no admonishment of Sumner for going beyond the scope of his original instructions.

With territorial affairs relatively calm, Shannon informed Sumner on 23 June that he had to leave the territory for about ten days. The governor said he would be in Saint Louis on official business. Shannon expressed his concern to Sumner over the possibility of the Free State legislature convening in Topeka on 4 July. He instructed Sumner to disperse the Free State legislature if it tried to meet. “Two governments cannot exist at one and the same time in this Territory in practical operation; one or the other must be overthrown; and the struggle between the legal government established by Congress and that by the Topeka convention would result in civil war.” Shannon went on to explain to Sumner that “[s]hould this body reassemble and enact laws, (and they have no other object in meeting,) they will be an illegal body, threatening the peace of the whole country, and therefore should be dispersed.” Finally, Shannon told Sumner that if the Topeka Legislature tried to assemble, he

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<sup>91</sup> Sumner to Assistant Adjutant General, Department of the West, 23 June 1856, *Transactions*, vol IV, 444-445; Sumner to Cooper, 23 June 1856, LLAGO, Roll 548.

should disperse it “peacefully if you can, forcibly if necessary.”<sup>92</sup> Shannon assured Sumner—per the latter’s request—that civil authorities would cooperate with him. If Sumner needed reinforcements, Shannon directed him to ask Acting Governor Daniel Woodson to provide them from Fort Riley. Shannon’s orders and intent were clear. The Topeka Legislature was an illegal body and it could not be allowed to meet. If it did, civil war might erupt. Given Washington’s guidance and Pierce’s and Davis’s tacit approval of Sumner’s preventative strategy, Sumner evidently saw no reason why he should not carry out his orders.

On 28 June, Sumner ordered Major John Sedgwick and two companies of the 1<sup>st</sup> Cavalry to Topeka to implement what the Colonel believed to be his commanders’ intent. Sumner notified Acting Governor Woodson of the troops movement and his approval of the Governor’s request. “[T]hat body of men,” Sumner told Woodson, “ought not to be permitted to assemble.” Sumner believed, like Shannon, that if the Topeka legislature convened civil war could erupt. He was also cognizant of the need for civil authorities to take the lead in dispersing the legislature and he let Woodson know his feelings on that issue. “In this affair,” Sumner instructed Woodson, “it is proper that civil authorities should take the lead.”<sup>93</sup>

Sumner had not planned to go to Topeka himself until Woodson asked him to do so on 30 June. Woodson informed Sumner that he had ordered Lieutenant Colonel Cooke to send forces from Fort Riley to aid in the Topeka operation and to

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<sup>92</sup> Shannon to Sumner, 23 June 1856, *Transactions*, vol IV, 422-423

<sup>93</sup> Sumner to Daniel Woodson, 28 June 1856, LAGO, Roll 547 and Sumner to Cooper, 1 July 1856, LAGO, Roll 548. See also Leverett W. Spring, *Kansas: The Prelude to the War for the Union* (Boston: Houghton, Mifflin and Company, 1885), 130.

interdict any hostile forces rumored to approach Topeka from the North. Judge Sterling Cato of the territorial Supreme Court would be there as well.<sup>94</sup> He told Sumner that he had requested the presence of United States District Attorney A.J. Isaacs "to getting out the necessary legal procedures."<sup>95</sup> As Sumner readied for his journey to Topeka, he notified the War Department on 30 June of his plans and sent copies of the acting governor's orders. Two hours before he left Fort Leavenworth for Topeka, Sumner sent another note to Washington outlining his course of action for this "difficult and delicate operation." "I shall act very warily," Sumner informed Colonel Cooper, "and shall require the civil authorities to take the lead in the matter throughout. If it is possible to disperse them without violence it shall be done."<sup>96</sup>

After Sumner arrived in Topeka, a committee of free state men asked Sumner his intentions regarding the use of federal troops. Sumner responded to the committee's question on 3 July. He told the committee members that their assembly would endanger the "peace of the country." Sumner suggested that they not meet on 4 July as planned. If they attempted to do so, "the general government should be compelled to use coercive measures to prevent the assemblage of that Legislature."<sup>97</sup> Ironically, as Sumner tried in vain to dissuade the free staters from meeting, the Republican-controlled House of Representatives had voted to admit Kansas into the Union under the free state's anti-slavery constitution. The Senate, still dominated by

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<sup>94</sup> In reality, Judge Rush Elmore, a slave owner and pro-slavery advocate, attended the event.

<sup>95</sup> Woodson to Sumner, 30 June 1856, *Transactions*, vol IV, 447.

<sup>96</sup> Sumner to Cooper, Adjutant General, 1 July 1856, *Transactions*, vol IV, 446. See also Spring, *Kansas—Prelude to War*, 131.

<sup>97</sup> Sumner to Free State Committee, 3 July 1856 in Gihon, *Geary and Kansas*, 45-46. See also Spring, *Kansas—Prelude to War*, 132.



Democrats, rejected the House's action. Political tensions associated with the Kansas issue were inflamed throughout the nation on the eve of America's eightieth anniversary.

Although many of its key leaders were absent for fear of being arrested for treason, the free state legislature attempted to convene as planned on the morning of 4 July. Following the established ROE, United States Marshal I.B. Donalson proceeded to read Woodson's proclamation forbidding the illegal assembly of the free state legislature. He followed Woodson's edict with a recitation of Pierce's 11 February proclamation. Some free staters complied with the proclamations and did not attempt to meet. Others were more recalcitrant and proceeded to assemble. Once the legislature tried to convene, Sumner felt obliged, as he explained to the War Department, "to march my command into the town, and draw it up in front of the building in which the Legislature was to meet."<sup>98</sup> The Colonel first dispersed the House of Representatives of the free state legislature. He "informed them that under the proclamation of the President, he had come to disperse the Legislature, which duty, though the most painful of his life, he was compelled to perform even if it should demand the employment of all the forces in his command."<sup>99</sup> Sumner's pain came from using military force to disband an assembly of American citizens. Once the members of the legislature had departed peaceably, he then dispersed the upper house under the same authority. The Topeka legislature had tried to assemble, but

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<sup>98</sup> Sumner to Cooper, 7 July 1856, *Transactions*, vol IV, 448-449.

<sup>99</sup> Gihon, *Geary and Kansas*, 46. See also Spring, *Kansas—Prelude to War*, 135 and William Phillips, *The Conquest of Kansas by Missouri and Her Allies* (Boston: Phillips, Sampson and Company, 1856), 404.

Sumner and the United States Army had prevented it from doing so. In accordance with his understanding of his commanders' intent, the policy and guidance issued from Washington, and his own preventative strategy, Sumner had accomplished his mission without bloodshed and without violating his instructions from Shannon. He had helped reinforce the legitimacy of the territorial legislature in Lecompton while maintaining peace and preventing civil war. What Sumner had not anticipated was the political impact his actions would have in Washington and throughout the nation.

News of the incident did not reach Washington until 10 July. By then Colonel Sumner had returned to Fort Leavenworth, convinced that he had done his duty, that he had operated within his commander's intent, and that he had saved the nation from possible civil war. In a 7 July report to Washington, Sumner recalled how, under Woodson's direction, he brought the Topeka government to an end. He concluded his letter by asking for additional guidance on what to do concerning General William S. Harney's request for troops. He had heard nothing since his 28 May request. If he did not receive any guidance from the War Department in the immediate future, he planned to follow Harney's orders and leave Kansas affairs to the territorial government. Sumner's concluding remarks left the impression that now that the Topeka incident was behind him, life in the army would return to more traditional activities. He was wrong.

Even before the political fallout of the Topeka incident had reached its climax, the new commander of the Department of the West decided to place Sumner

on extended leave.<sup>100</sup> Sumner's leave began on 15 July for sixty days with the option to extend it if he so desired.<sup>101</sup> Sumner, according to Joseph E. Johnston, left Fort Leavenworth "in high dudgeon." And, Johnston stressed, Sumner regarded himself as "ill-used by an ungrateful administration."<sup>102</sup> Davis, however, did not see Sumner's 7 July report on the Topeka incident until 19 July. He read Sumner's account and forwarded an endorsement to Sumner on 21 July. In his endorsement, Davis expressed concern that Sumner's actions were unauthorized under the existing ROE for Kansas. He asked Sumner to elaborate on what justified his actions in dispersing the so-called Topeka Legislature.<sup>103</sup>

Sumner responded to Davis's question without having received the Secretary's letter. The War Department forwarded Davis's letter to Fort Leavenworth, but the Colonel had departed on 15 July for New York.<sup>104</sup> Apparently,

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<sup>100</sup> For an example of the political fallout, see "Col. Sumner and the Administration," Letter to the Editor, 9 August 1856, *New York Daily Times*. Brevet Major General Persifor Smith arrived at Fort Leavenworth on 7 July 1856. Smith replaced Clarke and moved the Departmental Headquarters from St Louis to Leavenworth upon his arrival on 1 July. Smith's initial report to Davis indicted that Sumner's dispersal operation had been a success. His assessment of Colonel Sumner's actions indicted that he had no qualms about what had happened. See Smith to Cooper, 14 July 1856, LAGO. Davis did not see Smith's letter until 23 July.

<sup>101</sup> Returns from U.S. Military Posts, 1800-1916, Fort Leavenworth, July 1856, National Archives Microfilm, Record Group 94, M617. See also Sumner to Cooper, 13 July 1856, Letters Received by the Commission Branch of the Adjutant Generals Office, 1863-1870, NARA, Roll 5

<sup>102</sup> Joseph E. Johnston to McClellan, 10 August 1856, McClellan Papers, LOC.

<sup>103</sup> Sumner to AGO, 1 July 1856, LAGO, Roll 548; Sumner to AGO, 7 July 1856, LAGO, Roll 548; and Davis to Sumner, 21 July 1856, LAGO, Roll 548. See also, Spring, *Kansas—Prelude to War*, 135. Spring offered the following explanation of Davis's motives for questioning Sumner's dispersal of the Topeka legislature: "I [Jefferson Davis] looked upon them [the members of the state legislature], as men assembled without authority, men who could pass no law that should ever be put in execution, and that the crime would be in attempting to put the law into execution, and in the mean time they might be considered as a mere town meeting." The letter did not leave the AGO until 21 July but Davis had signed his endorsement on 19 July. See Cooper to Sumner, 21 July 1856, LAGO, Roll 18.

<sup>104</sup> See Johnston to McClellan, 10 August 1856, McClellan Papers, Manuscript Division, LOC, Roll 44/82. See also Sumner to Cooper, 13 July 1856, Letters Received by the Commission Branch of the

Davis was unaware of Sumner's extended leave or of his departure from Kansas. Or, perhaps, he intended to delay Sumner's response long enough for the political situation in Washington to subside. Sumner learned of Davis's letter by reading a recent account of the Senate's proceedings. He responded to Davis's letter by stressing his impartiality during his time in Kansas. "From beginning to end," Sumner assured Davis, "I have known no party in this affair." Sumner also denied having usurped the peoples' right to assemble in Topeka. He had targeted only the "illegal" legislature and dispersed it according to the direct orders of the Acting Governor, the wishes of Governor Shannon, and his interpretation of the President's proclamation.<sup>105</sup> Sumner, a loyal and dutiful soldier of 37 years, was only doing what he firmly believed was his professional duty. But Sumner's 11 August response to Davis's query was of little consequence to affairs in Washington. On 21 July, the Senate asked the President to provide information about the orders sent to the commanders in Kansas relative to any "instructions 'issued to any military officer in command in Kansas to disperse any unarmed meeting of the people of that Territory, or to prevent by military power, any assemblage of the people of that territory.'"<sup>106</sup>

Of course there were no orders from Washington that specifically stated what the Senate asked. Jefferson Davis forwarded the correspondence he believed relative

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Adjutant Generals Office, 1863-1870, NARA, M1064, Roll 5. The AGO did not receive Sumner's leave of absence notification until 23 July.

<sup>105</sup> Sumner to Cooper, Oneida Lake, New York, 11 August 1856, *Transactions*, vol IV, 450-451.

<sup>106</sup> "Senate Resolution," 21 July 1856, LLAGO, Roll 545 and Pierce to the Senate of the United States, 4 August 1856 in Senate Executive Document 97, 34<sup>th</sup> Cong, 1<sup>st</sup> sess., Serial 823. Muldowny argued that Davis's main concern over the use of federal troops to disperse the Topeka legislature violated his commitment to the principle of non-interference in Kansas. Non-interference or non-action, in Muldowny's analysis, favored the cause of the South. Once the principle of federal action had been established, "it could be used with just as much effect against pro-slavery groups." See Muldowny, "Administration of Jefferson Davis," 204.

to the Senate request to the President. Three key documents stand out in Davis's response: 1) his 15 February letter to Sumner and Cooke; 2) his 26 March response to Sumner's request for clarification; and 3) his 23 May approval of Sumner's course of action letter. In sum, the 15 February letter stressed the use of proper civilian authority prior to any army involvement. If resistance to civilian authority occurred and only after it occurred, the territorial governor could call upon the military to aid in the execution of the law or to suppress insurrectionary combinations. The 26 March letter stressed once again that "only when armed resistance is offered" could federal troops be used. The last piece of policy guidance Davis submitted to the Senate congratulated Sumner for his zeal to "preserve order and prevent civil strife." But Davis's key point of that letter emphasized that Sumner accomplished his mission "in the manner specified in [his] instructions." What Davis failed to discuss was the War Department's tacit approval of Sumner's preventative strategy to disperse armed bodies and to suppress insurrectionary combinations. Sumner, Shannon, and Woodson all considered the Topeka Legislature to be "insurrectionary" as defined in Pierce's 11 February proclamation. Nonetheless, Davis's response to the Senate coupled with Sumner's extended leave gave the impression that the latter had exceeded his authority by dispersing the legislature without specific orders from Washington. Moreover, Sumner's extended leave amounted to a "graceful disciplinary action."<sup>107</sup> The administration had found an unwilling scapegoat for the

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<sup>107</sup> Davis to Pierce, 30 July 1856 in Senate Executive Document 97, 34<sup>th</sup> Cong, 1<sup>st</sup> sess., Serial 823; Davis to Sumner and Cooke, 15 February 1856 in Senate Executive Document 97, 34<sup>th</sup> Cong, 1<sup>st</sup> sess., Serial 823; Cooper to Sumner, 26 March 1856 in Senate Executive Document 97, 34<sup>th</sup> Cong 1<sup>st</sup> sess., Serial 823; Davis to Sumner, 23 May 1856 in Senate Executive Document 97, 34<sup>th</sup> Cong, 1<sup>st</sup> sess.,

affair in Colonel Sumner. But why did the Topeka incident occur if Pierce and Davis had made known their disapproval of using federal troops to prevent an anticipated crisis, and their desire not to disrupt a peaceable assemblage of the people guaranteed under the first amendment?

Historians, including Pierce's foremost biographer Roy F. Nichols, have stressed the political consequences of the Topeka dispersal.<sup>108</sup> Undoubtedly, Pierce wanted to pacify Kansas as quickly and as effectively as possible without exacting further political costs for the Democratic Party. The use of government troops to make popular sovereignty work was a risky proposition in a democratic society. It harkened back to days when the British Crown tried to impose its will on unwilling colonists through the use of a standing army. And any use of the regular army in a domestic circumstance was a politically delicate function. As far as Pierce was concerned, there was no other viable option in the summer of 1856 but to use federal troops to impose peace. Without peace and order, Kansans could not determine their own domestic institutions via the ballot box. The army was the only proximate and politically acceptable means available to achieve those objectives in a short period of time.

Pierce and Davis probably thought they had given specific guidance regarding the tasks in which the army was to be used and how it was to be employed. In many respects they were right. What they failed to appreciate, or at least to rectify,

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Serial 823; and Sumner to Cooper, Oneida Lake, New York, 11 August 1856, *Transactions*, vol IV, 450-451. See footnote in Garver, "Role of the United States Army," 582n.

<sup>108</sup> Nichols, *Franklin Pierce*, 478-480.

was the complex nature of effective command and control processes of the era. Had the government pursued a more aggressive effort to use existing communications technology and capabilities, they could have overcome some of problems that led to the Topeka incident.

The existing communications network and the processes employed to pass information severely limited Washington's ability to effectively command or control its people and their respective actions in territorial Kansas. Very simply—as Roy Nichols stressed in his biography of Pierce—communication problems made it difficult to deal with the Kansas situation.<sup>109</sup> Nichols's sage analysis is understated. Had either the War Department or the State Department attempted to expedite communications from the territory to Washington and back, some of the confusion associated with Pierce's and Davis's instructions to Sumner and Shannon could have been clarified.

Ironically, there was minimal use of existing telegraph connectivity between Kansas and Washington. Kansas itself was void of any telegraphic capability until 1859. Weston, just across the Missouri River from Fort Leavenworth, and Westport, now part of modern-day Kansas City, boasted telegraph offices by 1852.<sup>110</sup> When the government used existing telegraph systems, more often than not, telegrams arrived no faster than letters had via regular mail routes. Perhaps some argued that the telegraph and its inherent capability to transmit information rapidly was nothing more

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<sup>109</sup> Nichols, *Franklin Pierce*, 400.

<sup>110</sup> See "Steamboats often snapped wire here but early telegraph lines prospered," *Kansas City Star*, 25 April 1950, KSHS.

than a nuisance. Military operations in far away Kansas were best left to the discretion of local commanders. But given the political sensitivity of the Kansas situation from the end of 1855 through 1856, it was indeed curious that the government and the key decision makers associated with Kansas did not more fully exploit the telegraph when it came to time sensitive operations and issues. Indeed, all the major decision makers—Pierce, Davis, Shannon and Sumner—used telegraphic dispatches to forward urgent information when they saw the need to do so.

Why was it so difficult to use existing telegraphic capabilities in a timely manner in 1856? Why was nothing done to make the existing communications process more responsive to political and military necessities? An analysis of communication modes between Washington and Kansas provides some enlightening conclusions. If Pierce or Davis wanted to direct their subordinates in Kansas, either Governor Shannon at Lecompton or Colonel Sumner at Fort Leavenworth, to perform a specific task by letter, it took, on average, 11.3 days to reach them. It took much longer if weather or other impediments slowed delivery. And even if Sumner received a letter from Davis in 11 days, it took an average of 13.78 days for the Colonel's acknowledgement of receipt of that letter to reach Washington.<sup>111</sup> In other words, a policy letter issued by Davis on the first of any given month would likely not reach Sumner until the eleventh. Once Sumner reviewed the correspondence and acknowledged its receipt, it would not get back to Washington until the twenty-

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<sup>111</sup> These averages are based on dates letters were sent from Washington and on notations of when they were received at Fort Leavenworth as listed on post returns from November 1855 through July 1856. The average for letters from Fort Leavenworth to Washington was based on information notated on Adjutant General's Office correspondence to the Secretary of War.



fourth. If Sumner had reason to question or seek clarification of something Davis had ordered, the process would begin anew, taking up to a month and a half to insure that Davis's intent in a policy letter was received and fully understood. Given the three-week plus normative communication cycle, the ability of Washington to shape or to respond to events in Kansas in any timely or meaningful manner was virtually impossible. Events in Kansas occurred far too quickly to allow any sort of effective command and control from Washington.

Nonetheless, the mail served as the preferred means of official communication between Washington and Lecompton or Fort Leavenworth. One reason was cost. Telegrams were expensive.<sup>112</sup> And even if a message made it from Washington to a functioning telegraphic office in Missouri, it would then require a special messenger or agent to deliver it to the intended recipient. Moreover, once a message reached Saint Louis, there was always the threat of a single point failure along the Missouri telegraph net since there was only a single line between Saint Louis and its terminus at Saint Joseph. Several other factors also inhibited reliable telegraphic communications. These included but were not limited to downed wires, cut wires, poor repair capabilities, and the possibility of poorly trained operators. Even if the system worked optimally, there were plenty of reasons for delayed transmissions.<sup>113</sup>

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<sup>112</sup> See Robert Luther Thompson, *Wiring a Continent: The History of the Telegraph Industry in the United States, 1832-1866* (Princeton: Princeton University Press, 1947), 243-245 for a discussion of telegraph rates during the early 1850s.

<sup>113</sup> The Missouri River Telegraph Company was the sole provider of telegraphic capability between western Missouri and St Louis between 1852 and 1857. Minimal profits had caused the lines to deteriorate to the point where the line was rarely functional between Weston or Independence and St

President Pierce's two 23 May telegrams to Governor Shannon regarding Kansas affairs exemplified some of these other difficulties. Prior to sending the messages, the White House instructed the telegraph operator in Washington to send them to the operator in Kansas City. Knowing of the problems related to telegraphic communications within Missouri, the instructions included a caveat telling the operator to send the message to Lexington, Missouri if the Kansas City office was inoperative. If the messages went to Lexington, special messengers were to forward them and deliver them in person to Governor Shannon or to Marshal Donalson if the governor was absent.<sup>114</sup> If all went well, Pierce's urgent plea for information could very well have reached Lexington or Kansas City within 24 hours. The telegrams Pierce sent, however, did not reach Shannon until 31 May—eight days after their original transmission from Washington. As to why it took so long, one can only speculate. But the fact that it took eight days to reach Shannon showed that in the example of the two 23 May telegrams; they could have just as easily arrived at Lecompton through the mail with only a few extra days delay.

An even more perplexing example of the telegraph's potential problems was Secretary of State Marcy's 25 February 1856 telegram to Territorial Secretary Daniel

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Louis. Charles Stebbins, the company's president, promised to rebuild the lines. He did, but it was not until the late 1850s that Fort Leavenworth and other communities in western Missouri or eastern Kansas would have reliable telegraphic communications. The best Stebbins and his company could do during the most difficult months of 1856 was connectivity with Boonville. Once message arrived at Boonville they had to be delivered by express (with additional expense), placed in the mail system, or held until someone retrieved them. For more on the genesis of the Missouri River Telegraph Company, see Missouri Telegraph, Vertical File, Missouri State Historical Society, Columbia, Missouri; "Proceedings of the Stockholders of the St Louis and Missouri River Telegraph Company," (St Louis: The Republican Office, 1851), WUTC Collection 205 Series 2, Box 122A, Archives Center, National Museum of American History, Smithsonian Institution; and "An Early Telegrapher," *Kansas City Journal*, 5 April 1905 in Telegraph, Missouri, Vertical File, MSHS.

<sup>114</sup> Pierce to Shannon, 23 May 1856, *Transactions*, Vol. IV, 414.

Woodson. Woodson informed Marcy in a 28 March letter that he had just received the Secretary's dispatch. He explained that the Weston office sent the dispatch to his address at Leavenworth by mail.<sup>115</sup> Since Woodson was in Westport, the message was forwarded once again.<sup>116</sup> It took over a month for Woodson to get his telegram. Granted there were obvious extenuating circumstances which delayed Marcy's telegram, but that further demonstrates that even when the telegraph system worked, there were significant obstacles to overcome in actually getting the message into the hands of the intended recipient.

Despite the problems posed by telegraphic messaging between Kansas and Washington, there were situations in which the telegraph worked amazingly well. During the Wakarusa crisis, for example, Shannon sent a telegraph to Pierce on 1 December 1855 asking for authority to use federal troops at Fort Leavenworth. Based on Shannon's 4 December letter to Colonel Sumner, the governor claimed to have received a response to his telegraphic request.<sup>117</sup> Why did Shannon receive a response within three days? In December, the territorial government resided in Shawnee Mission in close proximity to Kansas City. Perhaps the location aided the impressive speed of telegraphic communications. Or maybe everything worked as advertised during that timeframe. The important point was the fact that the telegraph could work in a more timely fashion. The three-day turn-around was indeed impressive, but it was certainly not a unique phenomenon.

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<sup>115</sup> Woodson to Marcy, 28 March 1856 in House Executive Document 1, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., serial 893, 44-45.

<sup>116</sup> Woodson to Marcy, 28 March 1856, Shawnee Mission, KT, Daniel Woodson Collection, KSHS.

<sup>117</sup> Shannon to Sumner, 1 December 1855, Woodson Papers, Woodson Collection, KSHS and Shannon to Sumner, 4 December 1855, Woodson Papers, Woodson Collection, KSHS.

A more impressive example of how effective the telegraph could work occurred in 1851. As an American Indian named See-see-sah-ma awaited execution for the murder of a mail carrier, local authorities discovered that he had not committed the crime. He had lied to protect the real murderer—his father. Missouri had scheduled the execution for noon on 14 March 1851. Since See-see-sah-ma had no time to appeal the death sentence through regular channels, officials opted to try a telegraphic appeal to the President. Operators in Jefferson City, Missouri transmitted the appeal on 13 March. That evening, it reached President Millard Fillmore who intended on issuing a stay of execution until the process could be handled via normal channels. Unfortunately, the telegraph office was closed and the stay was not transmitted until the morning of 14 March.

The White House sent the message over three different routes in hopes that one of them might reach Jefferson City before the execution occurred. Fortunately, the first telegram reached the Marshal's office in Saint Louis at 10:00 A.M., two hours before See-see-sah-ma's scheduled execution. The Marshal immediately relayed the message to the deputy marshal in the capital. He received it in good order and See-see-sah-ma was spared an unjust punishment.<sup>118</sup> Although the See-see-sah-ma example was not related to Kansas affairs, it clearly demonstrated what determined government officials could accomplish if the perceived need for speed arose. The telegraph had proven its ability to facilitate quick decisions in a time sensitive situations. In a process that would have taken up to three weeks by mail, the

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<sup>118</sup> Phil Ault, *Wires West* (New York: Dodd, Mead & Company, 1974), 142-143.

telegraph shortened it to less than a day. By 1850 standards, the See-see-sah-ma appeal was indeed an information miracle.

If the telegraph could aid decision makers in time sensitive situations, why was there an apparent reluctance to use it prior to Sumner's dispersal of the Topeka legislature on 4 July 1856? Four reasons stand out. One was location. A telegraph office in Weston or Westport worked relatively well for local residents, but it still took time to deliver messages from those locations to points within Kansas. The Marcy telegram to Woodson took eight days and showed how long it could take a message to get from Weston to Kansas. Cost was a second concern. A 19-word message from Washington to Fort Leavenworth could cost up to 27.8 cents per word. Spending \$5.30 for a telegram was the rough equivalent to one day's salary for a justice of the territorial Supreme Court.<sup>119</sup> Given the potentially significant political consequences of poorly executed policy in Kansas, how much was too much to spend on telegrams?

A third problem was simple inertia. Resistance to change or to new technology was and is fairly common. Why use the telegraph when the old system has worked for decades? And lastly, what is known today as commander's intent had a lot to do with the reluctance to use the telegraph to either inform Washington of planned operations or to seek permission to conduct day-to-day military missions in the territory. Based on their actions and their correspondence, both Shannon and

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<sup>119</sup> Telegram, B.F. Larned to Major Prince, Fort Leavenworth, 31 March 1856 in Senate Executive Document 39, 34<sup>th</sup> Cong, 3<sup>rd</sup> sess, Ser 881. A territorial justice received \$2,000 per year or \$5.48 per day. In another example, Davis's 30 September 1856 telegram to General Smith cost \$10.05. See Senate Executive Documents, Document 18, 35<sup>th</sup> Cong., 1<sup>st</sup> sess., Ser 923.

Sumner believed they were operating within their established guidelines when Shannon ordered and Sumner executed the operation to disperse the free state legislature if it attempted to convene in Topeka on 4 July. In other words, both key decision makers in Kansas based their decisions and actions on what they thought was their superior's intent.

Shannon had met with Pierce personally in February to discuss territorial matters. The President's and the Secretary of State's guidance to Shannon further reinforced his approach to resolving territorial issues. The governor firmly believed that Pierce's 11 February proclamation outlawed the Free State legislature and that it was his sworn duty to prevent it from meeting. As the president's representative in Kansas it was his responsibility to suppress insurrectionary movement. As far as Shannon was concerned the planned 4 July assembly was just that—another insurrectionary action on the part of the free state movement. Colonel Sumner agreed with Shannon's assessment. If civil war was to be averted, the Topeka legislature could not be allowed to assemble. Surely the President and the Secretary of War did not want civil war. Although there was nothing specific in his instructions from Davis to disperse the free state legislature per se, Sumner followed direct orders from his civilian authorities—Governor Shannon and Acting Governor Woodson. Had Sumner disobeyed his legal orders, he could have been charged with failure to obey or conduct unbecoming an officer.

If obeying Shannon's and Woodson's orders was in the least questionable, why not send a telegram to Washington for clarification before using troops to

disperse the Topeka legislature? First of all, Sumner probably saw no need to do so. He had his guidance from Washington and his orders from Shannon and Woodson. What else did he need? Theoretically, he could have dispatched an express to Boonville and then by telegraph to Washington as early as 25 June requesting additional guidance on how to handle Shannon's 23 June order to disperse the legislature. Had the telegraph system worked as it had in the case of See-see-sah-ma, Sumner could have received a response from Davis within four to five days allowing for a day or two in Washington to coordinate between the War Department and the White House. Sumner saw no need to do so. He did forward the governor's letter and other materials associated with the Topeka operation via mail on 30 June and 1 July, but those dispatches did not reach Washington until 10 July—six days after the dispersal. Based on his actions and his proven record of following orders, Sumner saw no requirement to clarify his instructions from Shannon and Woodson. Had he anticipated the political fallout from his actions, Sumner probably would have sought permission from Davis. But under the circumstances and given the information he knew at the time, Sumner made his decision without hesitation and without remorse. He returned to Fort Leavenworth confident he had performed his duty no matter how painful it was to him personally.

Sumner's personal agony about using federal troops to disperse fellow citizens was undoubtedly compounded by the frustration he encountered in the aftermath of the Topeka incident. The news of the Free State legislature dispersal had severe political repercussions for the Pierce administration and the Democratic

Party. Coupled with the sacking of Lawrence, the caning of Charles Sumner, and the Pottawatomie Creek Massacre in May, the use of federal troops to disperse unarmed citizens appalled many Americans. How could the government condone the use of force to deny the right of peaceable assembly?

Colonel Sumner, while cognizant of his actions, had no intention of violating the first amendment or any other law or policy. Based on the available evidence and Sumner's actions prior to 4 July, there was no reason to suspect that Sumner made his decision to use federal troops to prevent the Topeka legislature from convening for any reason other than what he believed to be his commanders' intent. Sumner understood that he—and he alone—was responsible for his actions and those of his troops. But he also knew that he did not have the authority to act unilaterally in the use of troops in domestic affairs. Only his civilian masters—the President, the Secretary of War, and the territorial governor—possessed the authority to order the use of his forces against fellow citizens. Given the guidance and policy issued by the War Department and the White House since January 1856, it was clear that Pierce, Davis, and Marcy understood the delicacy and sensitivity of using federal power to sustain a territorial government in which a large number of its constituents viewed as bogus.

The Pierce administration had few politically acceptable options by the summer of 1856. The House of Representatives—dominated by Republicans—wanted Kansas to enter the Union as a free state. The Senate—because of the pro-slavery South's countervailing power—did not. A divided Congress could not stop



Kansas from bleeding. The Supreme Court would not make its attempt at resolution until the Dred Scott decision of 1857. Moreover, the upstart Republican Party had nominated John C. Fremont for president on 19 June on a platform to make Kansas a free state. Further complicating the political scene in 1856, the remnants of the Whig Party joined with the nativist American Party and supported former president Millard Fillmore for the presidency. By the end of the summer, "Bleeding Kansas" alone had provided the lion's share of the political ammunition needed to bash the Democrats. Additionally, "Bleeding Kansas" had caused at least two national political casualties. The Democrats repudiated Pierce and rejected Stephen A. Douglas—the author of the Kansas-Nebraska Act—as possible presidential nominees. In lieu of the President and the Senator from Illinois, the Democrats selected James Buchanan of Pennsylvania largely because he had spent the entire imbroglio at the Court of Saint James and had no direct ties to affairs related to Kansas.

The dispersal of the Topeka legislature in itself was not responsible for the Democratic Party's problems in 1856. But it was representative of the difficulties associated with using military force to achieve complicated political objectives in emotionally charged circumstances. Neither Colonel Sumner nor Governor Shannon was trained on how to handle such delicate civil-military matters. American citizens generally found the use of federal troops to resolve domestic disputes morally repugnant. And lastly, the existing C3I processes further compounded the difficulties in communicating commanders' intent from Washington to Kansas. Although existing communication modes were slow, they were generally reliable.

Yet there was a viable alternative to traditional means of communicating. Decision-makers in Washington and Kansas had used the existing telegraph infrastructure successfully to relay questions, clarify policy, and provide general information on several occasions. Since the telegraph did not reach into Kansas until 1859, there were obvious difficulties associated with its use during 1856. It was also true that it could be done if one was willing to invest the effort and accept the costs associated with the electric telegraph. In hindsight, Sumner might have tried to seek Washington's approval before deploying his troops to Topeka as he cautioned Shannon to do before mobilizing the territorial militia during the Wakarusa War. Jefferson Davis might have followed his micro-management tendencies more fully and insisted upon daily updates from his military subordinates in Kansas had he known what Sumner and Shannon had planned before the incident. That did not happen and Sumner used federal troops to disperse the Topeka legislature.

Since it did happen, the Topeka incident provided an opportunity for the United States government and the army to learn more about the sensitivities and delicacies of using military force as peacekeepers to resolve a delicate political issue in an impassioned, politically charged environment.<sup>120</sup> To control the army's operations from far away Washington proved nearly impossible given the means of

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<sup>120</sup> James Buchanan learned an interesting lesson from the Topeka dispersal incident. "Following the wise example of Mr. Madison towards the Hartford convention, illegal and dangerous combinations, such as that of the Topeka Convention, will not be disturbed unless they shall attempt to perform some act which will bring them into actual collusion with the Constitution and the laws. In that event, they shall be resisted and put down by the whole power of the Government." See "President Buchanan's Reply," 15 August 1857 in "Kansas State Rights: An Appeal to the Democracy of the South" (Washington: Henry Polkinhorn, Printer 1857 in *Kansas Collected Speeches and Pamphlets*, Vol 8, 1855-1857. KSHS.

communication employed. More latitude—such as that granted to General Harney during the Sioux expedition—would have to be given to local civilian and military authorities if Kansas were to be pacified. Unfortunately, little changed in the near term regarding how the government used the army as a peacekeeping force as a result of the Topeka dispersal.

Changes occurred, but they were generally temporary fixes that proved inadequate as long-term solutions. Davis had already placed Major General Persifor F. Smith, for example, in overall command of military forces in Kansas. Perhaps the presence of a senior ranking officer in the territory would reflect a greater concern on behalf of the Pierce administration. Having a brevet two-star general in theater would also resolve sticky command issues.<sup>121</sup> Smith clearly outranked Harney and any other officer who might serve in the Department of the West's area of responsibility. In one of his first actions, Smith moved his headquarters from Saint Louis to Fort Leavenworth. He assumed command at Leavenworth on 7 July; three days after Sumner dispersed the legislature. Shortly after Smith's arrival, Colonel Sumner began his extended leave on 15 July—an arrangement that had nothing to do with Smith's assumption of command of army forces in Kansas.<sup>122</sup> Sumner would later return to Kansas and assume command of the 1<sup>st</sup> Cavalry and lead an aborted attempt to chastise the Cheyenne in 1857.<sup>123</sup>

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<sup>121</sup> Smith to Cooper, 14 July 1856, LAGO, Roll 551.

<sup>122</sup> Some have argued that Smith's move to Leavenworth was a result of Sumner's actions. Davis ordered Smith to St Louis well before Sumner dispersed the legislature.

<sup>123</sup> Memorandum for Mr. Childs, 29 November 1940, Sumner Family Papers, Manuscript Division, Library of Congress.

Wilson Shannon, on the other hand, resigned his position as governor in August. He would later reside and practice law in Lawrence. He died there in 1877. His resignation, however, was a mere formality. Pierce had already decided in July to replace him with John W. Geary of Pennsylvania.<sup>124</sup> Apparently, the Pierce administration's solution to the Kansas quagmire was to replace the local leadership—not to improve communications between Washington and Lecompton and Leavenworth. Fortunately for Pierce and the Democrats, Shannon's successor was more adept at handling the intricacies of Kansas politics than had Shannon. But had Washington looked more toward improving or using existing communication capabilities and processes, the government and the army could have avoided an embarrassing situation and "Bleeding Kansas" might have been less costly.

Given the decentralized nature of command relationships in the ante bellum army, it was probably too much to have expected Franklin Pierce or Jefferson Davis to try to establish a more centralized control process over military operations in Kansas. Neither the army nor their civilian masters were prepared to integrate new technologies with age-old communication processes. Old paradigms of non-interference and decentralization were too difficult to overcome. The means necessary to improve the command and control of sensitive military operations, however, was on the threshold of a revolution in military affairs. The telegraph—with its near real time information capabilities—would be more fully utilized in the American Civil War and during the wars of German unification, but there is little

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<sup>124</sup> *Transactions*, vol III, 279-283. For more on Geary's appointment see, Harry Marlin Tinkcom, *John White Geary: Soldier-Statesman, 1819-1973* (Philadelphia: University of Pennsylvania Press, 1940).

question that the Pierce administration missed an opportunity to link improved communications capabilities with the accomplishment of its domestic political objectives through more centralized command and control procedures. There was and is also a danger arising from too much centralization of control. That, however, is another story.

## Chapter 6

### Applying the Tourniquet of Peace: John Geary, the Army, and the Election of 1856

The ends justified the means and the result equaled all that could have been anticipated.<sup>1</sup>

—Jefferson Davis, 11 September 1858

Take it all in all, the conduct of the army during the Kansas conflict, even though under the direction of Jefferson Davis, Secretary of War, is worthy of all the praise, with the single exception of the dispersion of the Legislature, and this was afterwards disapproved by Secretary Davis and the President.<sup>2</sup>

—Charles Robinson, *Kansas Conflict*

The presence of U.S. troops here is a powerful auxiliary to moral suasion, and they are excellent 'peace makers.'<sup>3</sup>

—John W. Geary, 7 October 1856

As were professional and ethical matters, command and control issues were only part of the overall scenario that shaped and constrained army peace operations in Kansas and in the trans-Missouri West between 1854 and 1856. One of the most important influences on why the army conducted peace operations and perhaps the most significant reason why those operations were conducted the way they were centered on domestic politics and political power. To paraphrase Clausewitz, army peace operations in Kansas reflected the continuation of policy by alternative means to achieve partisan political objectives.<sup>4</sup>

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<sup>1</sup> "Speech of Jefferson Davis," Portland, Maine, 11 September 1858 in Lynda Lasswell Crist, ed., *The Papers of Jefferson Davis*, Vol. 6 (Baton Rouge: Louisiana State University Press, 1989), 222.

<sup>2</sup> Charles Robinson, *Kansas Conflict* (New York: Harper and Brothers, 1892), 337.

<sup>3</sup> Geary to Marcy, 7 October 1856, Geary Diary, Geary MSS, Historical Society of Pennsylvania, Vol 3, 25.

<sup>4</sup> Clausewitz, *On War*, 87.

In early June 1856, the Democratic Party selected James Buchanan of Pennsylvania as their nominee for President. The Democrats selected Buchanan largely because he was not tainted by the turmoil and controversy surrounding the Kansas Nebraska Act and the tragic events that had unfolded in Kansas.<sup>5</sup> His duty as American minister to Great Britain during the controversy made him a safe candidate. The other leading Democratic contenders—Franklin Pierce and Stephen A. Douglas—were, and perhaps fatally so.<sup>6</sup> By selecting an experienced statesman and a citizen of the key electoral state of Pennsylvania, the Democrats hoped Buchanan's nomination would keep their party in the White House. Despite their rebuke of the incumbent Pierce, the Democrats did not alter their fundamental support of party policies advanced by the Pierce administration. Most importantly, they continued—as they had since the 1848 campaign—to espouse their belief in the popular sovereignty doctrine as the solution to the slavery extension question in Kansas. In a draft of his message to the Cincinnati Convention, Buchanan outlined his support for the Kansas Nebraska Act and popular sovereignty. “This legislation is founded upon principles,” Buchanan proclaimed, “as ancient as free government itself, & in accordance with them has simply declared that the people of a territory, like those of a State, shall decide for themselves whether slavery shall or shall not exist within their limits.”<sup>7</sup>

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<sup>5</sup> For other factors associated with Buchanan's nomination, see W. Dean Burnham, *Presidential Ballots, 1836-1892* (Baltimore: The Johns Hopkins Press, 1955), 64.

<sup>6</sup> Cooper, *Jefferson Davis*, 270.

<sup>7</sup> “Draft of Cincinnati Convention,” Buchanan Papers, Roll 50, Historical Society of Pennsylvania (Microfilm), Manuscript Division, Library of Congress. Hereafter cited as HSP (MF).

Buchanan believed that the Kansas Nebraska Act did “no more than give the force of law to this elementary principle of self government.” The “true intent and meaning” behind the act was “not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form & regulate their domestic institutions in their own way, subject only to the Constitution of the United States.”<sup>8</sup> Buchanan and the Democrats had thus committed themselves to the ideal of popular sovereignty despite the problems associated with its implementation in Kansas. The fraudulent elections, the Wakarusa War, and the continued existence of a “revolutionary” free state government did not deter the Democrat’s support for the principle.

Support for popular sovereignty, however, meant little if the Democrats lost the White House or control of Congress. The Republicans already controlled the House of Representatives as a result of the 1854 elections. The Democrats could not afford to allow the Kansas controversy to cost them any more. Buchanan and the Democratic Party stood firmly behind popular sovereignty as the primary means to resolve slavery extension dilemma. Unfortunately for Buchanan and the Democrats, the complicated political situation in Kansas had provided the Republican Party virtually all the political ammunition it would need to evict the Democrats from the White House. If the Democrats wanted to guarantee that popular sovereignty would work, they first had to maintain control of the federal government. Without that control and with a Republican victory the nation itself could be torn in half. As of

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<sup>8</sup> “Draft of Cincinnati Convention,” Buchanan Papers, Roll 50, HSP (MF), LOC.



June 1856, winning the national election became the paramount objective of the Democratic Party. It was not the only objective, but without victory in November, all others were moot.

Shortly after the Democratic Convention ended, Emery M. Hamilton of Milton, Wisconsin joined an organization known as the Wisconsin Pioneer Company. Hamilton was not a major player in the Kansas saga, but he was a typical example of the type of individual who joined and actively supported the free state cause. He was one of thirty-five men who joined the company on 10 June in hopes of making Kansas a free state. If popular sovereignty was the means to resolving the slavery extension question, then Hamilton and those like him saw it as their duty to go to Kansas and vote out slavery.<sup>9</sup> But the sanctity of the ballot box had been violated in Kansas, not once, but twice since the territory had been organized in 1854. If those who believed in free soil went to Kansas were denied access to the polls or if pro-slavery Missourians continued to cross the border and vote in overwhelming numbers, how could popular sovereignty ever work in Kansas? Two options seemed plausible to free-state supporters in context of the 1850s. One was to populate the territory with men who believed in free soil and free labor. Numbers mattered. The more free staters, the more likely Kansas would enter the Union as a free state. The other option was more risky. If the legitimate will of the majority of the white males

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<sup>9</sup> Emery Hamilton, Kansas Settler's Association, KSHS. See also SenGupta, *God and Mammon*, 94. SenGupta identified Eli Thayer's NEEAC strategy as the "Bible and the ballot box rather than the bowie knife and the Sharp's rifle [as the means that] would shape the Kansas struggle."

who emigrated to Kansas could not be obtained through the ballot box, then the issue could be resolved through the force of arms.

The Wisconsin Pioneer Company was one of many organizations that emerged in the 1850s to aid settlers going to Kansas. They actively recruited men who believed in free soil to join their ranks and help keep slavery out of the territories. Once recruited, men of the Wisconsin Pioneer Company like Emery Hamilton made their way from various points in Wisconsin to Chicago. From there, they proceeded by rail to Iowa City where they rendezvoused with other “companies” destined for Kansas. Hamilton and his comrades expected to be in Kansas within fifteen days at the most. But like most expeditions to Kansas, they encountered various delays while en route. The Wisconsin Pioneer Company did not leave Iowa City until 27 June. With about 140 men in their party, they departed for Kansas via wagon and on foot. They reached Knoxville, Iowa in time to celebrate the 4<sup>th</sup> of July. Two weeks later they crossed the Missouri River into Nebraska Territory. The entourage camped 15 miles south of Nebraska City—another major rendezvous point along the so-called Lane’s Trail—before heading into Kansas on 4 August. While Hamilton was at Nebraska City, he and his mates were joined by more of Jim Lane’s recruits. By the time they crossed into Kansas, they had over 450 men and 50 wagons. This version of “Lane’s Army” finally arrived in Topeka on 13 August 1856.<sup>10</sup> Once there, they prepared for their next move.

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<sup>10</sup> Emery Hamilton, Kansas Settler’s Association, KSHS.

On the same day Emery Hamilton and his band of free staters left Iowa City, Brevet Major General Persifor F. Smith also began a journey to Kansas. Smith, an experienced departmental commander and native Pennsylvanian, had been selected by Jefferson Davis to command the Department of the West.<sup>11</sup> Both Pierce and Davis realized that they needed more responsible or at least more senior leadership in Kansas than Colonel Sumner. And perhaps more important, Smith was senior to both Brevet Brigadier General William Harney and Brevet Brigadier General Newman Clarke. His assignment to St Louis would remove all questions associated with command in the department. His experience with Indian issues in Texas coupled with his loyalty and commitment to the Democratic Party made Smith a logical selection.<sup>12</sup>

Smith was to report directly to the Secretary of War regarding Kansas affairs. Evidently, Davis wanted the Commanding General, Winfield Scott, excluded from the decision-making loop regarding the politically sensitive territory.<sup>13</sup> On his way to Kansas, Smith made an interesting request to see the Democratic Party presidential nominee. His application to see the Buchanan was forwarded through a third party, a gentleman named George Plitt. But why did Smith not ask Buchanan directly? More than likely Smith wanted to keep any meeting between him and Buchanan a secret, or least confined to a few trusted agents. Smith was keenly aware of his position as a

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<sup>11</sup> Cooper to Smith, 19 June 1856, LSAGO, Roll 18.

<sup>12</sup> Nichols, *Franklin Pierce*, 474-475. See also Smith to Buchanan, 3 February 1857, HSP (MF), LOC, reel 32. "Now the President when he sent me here was sincere & honest in his desire to carry out the principles of the Kansas-Nebraska act," Smith told Buchanan, "and so to allay the violence committed here as to put an end to the unfavorable influence it was exerting in the Middle, eastern, & Western states on the coming elections."

<sup>13</sup> Davis to Smith, 27 June 1856, Transactions, Vol. IV, KSHS, 426.

public servant and did not want to tarnish his reputation or his position by his association with political figures. The image of the apolitical military officer was important to maintain.<sup>14</sup> But Smith was anything but apolitical. He was a dedicated Democrat who he wanted to do his part in ensuring a Buchanan victory in November.<sup>15</sup>

Smith asked Plitt to write to Buchanan in hopes of scheduling a meeting while his train was in Lancaster, Pennsylvania. In his letter, Plitt stressed Smith's desire to meet with Buchanan "even if but for a moment." The political situation in Kansas appeared to be deteriorating. Rumors abounded that Governor Shannon had resigned. As a result of Shannon's alleged resignation, Plitt told Buchanan that Pierce was sending Smith to Kansas to "act as Military Governor of the Territory until the present difficulties are settled." Plitt also informed Buchanan that Smith was "determined to have quiet in that region." The reason Smith wanted to meet with Buchanan before his arrival in Kansas, however, was "to shape his course as to suit the views of the incoming administration, and as these cannot be put in writing, he desires this short interview at the cars."<sup>16</sup> As evidenced by his desire to meet with Buchanan before his arrival in Kansas, Smith knew full well that he, as Departmental commander, could play a major role in shaping events in that troubled territory. He also knew that Buchanan could not send written instructions outlining his personal

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<sup>14</sup> See Hunt, *History of Fort Leavenworth*, 92. "There seems to have been present [during territorial Kansas] that spirit of non-partisanship and self-control that has always characterized our Army in its dealings with difficult situations involving the welfare of the Nation."

<sup>15</sup> For more on Smith's views and his assessment of the political situation, see Smith to Buchanan, 3 February 1857, Papers of James Buchanan, Library of Congress, Roll 32 (HSP).

<sup>16</sup> George Plitt to James Buchanan, 27 June 1856, Buchanan Papers, Roll 2, Manuscript Division, Library of Congress. It is unknown if Buchanan did meet Smith before he left for Kansas.

goals and objectives regarding Kansas. Buchanan was not President, at least not yet. And the perception that Smith was taking orders or seeking advice from Buchanan could have been devastating to Buchanan, Smith, and the Democratic Party. But as a loyal Democrat and Pennsylvanian, Smith felt obligated to coordinate his mission with Buchanan prior to his arrival in theater.<sup>17</sup>

Smith arrived in St Louis on 1 July 1856.<sup>18</sup> After assuming command of the Department of the West from Clarke, Smith prepared to move his headquarters from St Louis to Fort Leavenworth. He had planned to leave on 2 July but there was no boat available that was going up river. The delay gave Smith an opportunity to meet the territorial governor. Smith learned that Shannon had been in St Louis awaiting the arrival of his family. He also found out—contrary to earlier rumors of his resignation—that the governor intended to return to the territory once his family arrived. During their conversation, Shannon informed Smith of the planned 4 July Free State legislature meeting in Topeka. The General thought its convening might “cause some disorders, but [that he had] no means of knowing what probability there [was] of it.” Given the fact that Shannon was still in St Louis just prior to the scheduled meeting of free state legislators convinced Smith that there was “not much probability of violence on that occasion.” Smith concluded his first report to the AGO by relaying his concerns over the lack of appropriations for the new fiscal year that began on 1 July. He assured Colonel Cooper that he would be fiscally

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<sup>17</sup> Nichols, *Franklin Pierce*, 475. According to Nichols, “Pierce and Smith were both good Democrats.”

<sup>18</sup> Persifor Smith to AGO, telegram, 1 July 1856, LLAGO, Roll 548.

responsible. I will "incur no responsibility for expenditures," Smith proclaimed, "no matter how pressing the necessity, that [were] not fully authorized by law and provided for by appropriations."<sup>19</sup>

After four days of river travel, Smith and his headquarters arrived at Fort Leavenworth on 7 July. One week later Smith dispatched a flurry of reports and assessments about Kansas affairs. One of his first actions was to countermand orders from Brevet Brigadier General Harney. The Sioux Expedition commander had ordered the 1<sup>st</sup> Cavalry to points along the Oregon Trail in response to anticipated Cheyenne hostilities. Smith, however, felt that the 1<sup>st</sup> Cavalry could not be spared. They were needed in Kansas. "The Indians, Cheyenne, are certainly troublesome to trains & travelers & these will require protection which," Smith reported, "I will afford as soon as possible."<sup>20</sup> Smith's decision to override Harney's orders with Davis's support was a strong indication of a changing military policy. Peacekeeping in Kansas was a higher priority than protecting emigrants and lines of communications or chastising recalcitrant Indians. With its limited manpower, the army in Kansas could not guarantee peace, order, and security in Kansas without sacrificing other traditional requirements. As a result of the emphasis on Kansas first, other missions suffered. Until the volatile situation in Kansas became more tranquil, Smith was even reluctant to provide escorts or to perform any other duties that required the use of troops beyond territorial borders.

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<sup>19</sup> Smith to Cooper, 3 July 1856, LLAGO, Roll 551. See also, Nichols, *Franklin Pierce*, 475.

<sup>20</sup> Smith to Cooper, 14 July 1856, LLAGO, Roll 551.

In another 14 July letter to the AGO, Smith praised Colonel Sumner for his activities on 4 July. Sumner “succeeded in his object without resorting to any violence,” Smith boasted, “and since then no active measures have been taken by the opposing parties in the Territory.” Unfortunately, “lawless people from each [party] are spreading over the country robbing & even murdering,” Smith lamented, “and nothing but the [presence] of military force prevents the violent of both sides from returning.”<sup>21</sup> In response to the ongoing “lawlessness” in Kansas, Smith promised to “take prompt & effective measures to support the civil authorities in the suppression of it [violence].” Smith’s report, however, tended to stress that the greater threat to peace in Kansas would come from free state military organizations under the command or influence of Jim Lane. He concluded his report with an intelligence update on Lane’s whereabouts and his activities. Lane was last reported in Iowa City. The general also believed Lane had raised \$2,000 and over 250 men for his cause. Smith believed Lane intended to march across Iowa and into Nebraska Territory before entering Kansas, but he had no positive word on his last location.<sup>22</sup> Smith’s concern over Lane’s movements was not unusual, but the absence of any concern or mention of Missouri or border ruffian activity was somewhat suspect.<sup>23</sup>

Relative calm prevailed throughout the territory during the remainder of July. “In the Territory of Kansas there have been no disturbances,” Smith concluded on 26 July, “but emigrants are coming in armed as they were prepared to begin again when

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<sup>21</sup> Smith to Cooper, 14 July 1856, LAGO, Roll 551.

<sup>22</sup> Smith to Cooper, 14 July 1856, LAGO, Roll 551.

<sup>23</sup> “The South has undoubtedly the only real ground of complaint—because the complaint against them is actually the result of the injury done them.” See Smith to Buchanan, 3 February 1857, Buchanan Papers, HSP MF, LOC, Reel 32.

an opportunity offers.”<sup>24</sup> The General’s late July prophesy of a return to violence was soon to be fulfilled.

As Smith’s tour of duty in Kansas was beginning, Governor Shannon’s tenure as governor was coming to a premature end. By late June, President Pierce and the Democratic Party had become particularly sensitive to Kansas issues and their impact on the ongoing presidential canvass. On the same day that Shannon left Kansas for St Louis, Senator William Bigler of Pennsylvania expressed his growing concern to James Buchanan. “I must not disguise the fact,” Bigler emphasized, “that we are all full of apprehension as to affairs in Kansas.”<sup>25</sup> Bigler, of course, was not alone in his apprehension over Kansas. Secretary of State Marcy was also frustrated by events in the troubled territory under Shannon’s administration. “The everlasting Kansas still hangs heavily upon us and as it is the stock and trade of the opposition,” Marcy wrote to George Dallas, “they [the Republican Party] will if they can, (and I believe they can) keep it before the public with all the real and fictitious horrors which can be thrown around it.”<sup>26</sup>

The local population in Kansas was also keenly aware of the larger political consequences of the ongoing violence in the territory. “I am fully convinced that if there was no Presidential election this fall,” a Paola resident wrote to Buchanan, “there would be no trouble in Kansas.”<sup>27</sup> The “republicans,” Bigler stressed again in

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<sup>24</sup> Smith to Cooper, 26 July 1856, LAGO, Roll 551.

<sup>25</sup> Bigler to Buchanan, 23 June 1856, Buchanan Papers, HSP.

<sup>26</sup> Marcy to George M. Dallas, 13 July 1856, Marcy Collection, Manuscript Division, LOC, Container 71.

<sup>27</sup> M. McCaslin (Paola, KT) to James Buchanan, 26 June 1856, Buchanan Papers, HSP.



July, "do not want peace in Kansas until after the election."<sup>28</sup> Southern newspapers, such as the *Montgomery Advertiser* had revealed what it believed to be the Republican campaign strategy as early as March 1856. "It has been shown that it is the policy and purpose of Abolitionism to keep alive the Kansas excitement for political ends connected with the approaching Presidential election."<sup>29</sup>

If the Democrats were to win the national election, they had to do something about Kansas and do something soon. The administration had already sent Brevet Major General Smith to Kansas to bolster the military component. The territorial civilian leadership, however, was another problem. If the Democrats were to be victorious, they needed firm, responsible, and impartial leadership in Kansas. Shannon had lost what little credibility he had following the dispersal of the Topeka legislature on 4 July.<sup>30</sup> Colonel Sumner had acted under his direct orders. And although he was absent from the territory when the dispersal occurred, as the territory's chief executive it was ultimately his responsibility. The Democratic Party could not afford another Topeka incident. But who could provide the leadership necessary to pacify Kansas in time to deprive the Republicans of the Kansas "whip that Republicans used to flay the Democracy?"<sup>31</sup>

Just as the Democrats looked to Pennsylvania for their presidential nominee and for military leadership, they also turned to the keystone state for strong civilian leadership to help achieve peace in Kansas in time to influence the outcome of the

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<sup>28</sup> Bigler to Buchanan, 15 July 1856, Buchanan Papers, HSP.

<sup>29</sup> *Montgomery Advertiser*, 5 March 1856, 4.

<sup>30</sup> See Potter, *Impending Crisis*, 214n.

<sup>31</sup> Holt, *Political Crisis of 1850s*, 192.

1856 national elections. If Pierce was to negate the propaganda value of "Bleeding Kansas," he needed a strong-willed man with experience and proven leadership abilities. He needed a Democrat who could bring peace and instill a sense of legitimacy to the existing territorial government and do it relatively quickly. The President had refused to pursue other possible alternatives short of replacing the governor. He never sought to nullify the fraudulently elected legislature largely because he believed that he did not have the power to do so.<sup>32</sup> Pierce hesitated to remove any pro-slavery biased territorial official he had appointed to key positions in Kansas, even when their pro-slavery prejudices were well documented. Under these self-imposed constraints, Pierce had few remaining options.

Sending General Smith to Kansas was one. But Smith alone could not pacify Kansas without resorting to something akin to a military dictatorship that was voted down during the debates over the Crittenden resolution. And martial law was not a politically viable solution in an election year. He needed a territorial governor who understood military operations and who could work with Smith and the army in Kansas. The man Pierce chose to achieve his and the Democratic Party's primary political objective was John W. Geary of Pennsylvania.<sup>33</sup>

Pierce probably had made his decision to remove Shannon as early as 20 July. John Geary first learned of his nomination for the position from Senator Bigler on 23 July. Bigler and others had lobbied for Geary's selection. One of the more

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<sup>32</sup> Nichols, *Franklin Pierce*, 442.

<sup>33</sup> Nichols, *Franklin Pierce*, 479. For other accounts of "Bleeding Kansas," see Malin, *John Brown and the Legend of Fifty-Six*, (Philadelphia: American Philosophical Society Memoirs, 1942).

significant supporters was Shalor Eldridge, a prominent free state advocate from Kansas. Geary's military experience and his reputation for courage and leadership during the Mexican-American War coupled with his political know how gained as San Francisco's first Mayor pleased Pierce. His work and association with slave labor in the coalmines of Virginia satisfied those who supported pro-slavery policies.<sup>34</sup> In sum, Geary possessed the necessary martial and political qualities Pierce and the Democratic Party desired in a territorial governor.

But was Geary a loyal Democrat? Would he succumb to personal objectives over party imperatives as previous governors had? Another land speculating, free-state oriented governor like Reeder could sink the party's chances in November. A weak and indecisive governor like Wilson Shannon was just as dangerous.<sup>35</sup> Fortunately for the Democrats, Geary was staunch Jacksonian. An ardent supporter of popular sovereignty, he believed that men [at least all white men] were capable of self-government through "expression of their will, in free and equal elections." Geary believed in the sanctity and in the perpetuity of the Union. He despised anyone who threatened its existence and he opposed what he called "mobocracy and violence."<sup>36</sup> Neither an abolitionist nor an ardent supporter of the peculiar institution, Geary was not likely to support the extremists of either faction in Kansas. He had supported California's entry into the Union as a free state, but showed no interest in procuring equal rights for blacks, whether they were free or slave. Lastly, he

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<sup>34</sup> Tony R. Mullis, "John Geary, Kansas, and the 1856 National Election," *Heritage of the Great Plains* 25 no.1 (Winter 1992), 14-15.

<sup>35</sup> Tower, *Slavery Unmasked*, 428. Tower described Shannon as "weak and vacillating."

<sup>36</sup> John Geary to Edward Geary, 31 July 1856, MG-56, Pennsylvania Historical and Museum Commission, Pennsylvania State Archives, Harrisburg, Pennsylvania. Hereafter cited as PSA.

highly esteemed by troops of friends.”<sup>41</sup> Even Jefferson Davis supplied his own approval of Geary. Davis was impressed by Geary’s work with slave labor in the coalmines of Virginia and proved to the Secretary of War that Geary “was neither ignorant in relation to that kind of property nor prejudiced against it.”<sup>42</sup> What is wanting in Kansas, one Geary supporter remarked, is the “Spirit of Jackson.” “I know you have firmness, I have seen you tried.”<sup>43</sup> Geary would again be tried. While he prepared to depart for Kansas, circumstances deteriorated rapidly during the month of August in the troubled territory.

### The August War

August, 1856 began innocently enough for General Smith and the territorial government. Smith notified the AGO of a request from pro-slavery judge Samuel Lecompte for a military escort to protect him and his court’s proceedings in the village of Whitehead in Doniphan County. Lecompte was concerned over the proximity of Whitehead to Nebraska Territory. Rumors were mounting that Jim Lane and his “Army of the North” were positioning themselves for an assault on Kansas. Smith honored Lecompte’s request and ordered a company of troops under Captain T.J. Wood to Whitehead “to act under his authority in securing the peaceful administration of justice.”<sup>44</sup> Although no one questioned Smith’s authority to deploy

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<sup>41</sup> *The Pennsylvanian*, GSB, HSP, 37. For more positive reactions to Geary’s appointment, see, *Baltimore Republican*, GSB, HSP, 34 and *Harrisburg Democrat*, GSB, HSP, 36.

<sup>42</sup> Speech at Mississippi City, 2 October 1857 in Lynda Lasswell Crist, ed., *The Papers of Jefferson Davis*, Vol. 6 (Baton Rouge: Louisiana State University Press, 1989), 149.

<sup>43</sup> Simon B. Mayre to Geary, 15 August 1856, Geary Papers, Western Americana Collection, MSS 212, Beinicke Rare Book and Manuscript Library, Yale University. Hereafter cited as GP, WAC.

<sup>44</sup> Smith to AGO, 1 August 1856, LAGO, Roll 551 and Smith to Lieutenant Colonel Lorenzo Thomas, AAG, HQ USA, 1 August 1856, Roll 551.

troops to Whitehead, the fact that Smith placed the troops under Lecompte's "authority" was troubling. In none of his written instructions was Smith authorized to grant operational or tactical control of United States troops under a member of the judiciary. Lecompte was a federal official, but he was not a member of the executive branch. Pierce had given authority over federal troops to the governor and no one else. Smith's desire to aid in the administration of justice was commendable, but he set a dangerous precedent by placing federal troops under the command and control of a territorial justice.

Even more unsettling was Lecompte's unabashed pro-slavery bias.<sup>45</sup> Smith's support of Lecompte's request did not aid Smith's or the administration's avowed desire to use federal forces impartially. As long as Lecompte reveled in his pro-slavery rhetoric, Smith's support for the judge would tarnish the image of the army as an impartial force. Moreover, Smith also violated the existing ROE regarding the use of federal troops when he deployed Wood to Whitehead. It was only after the resistance to federal law and civilian law enforcement officials that troops were to be used. And only after the governor had approved their use and made a request for them. Although rarely mentioned by historians, Smith's actions revealed his tendencies to support pro-slavery officials and their policies. But under the guise of supporting only the "legitimate" officials of the territory, Smith had ample justification to support his actions.

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<sup>45</sup> Gihon, *Geary and Kansas*, 32, 158, and 162-5. Lecompte allegedly stated that he was proud of his pro-slavery party bias. "I love the institution [slavery]," Lecompte wrote Geary, "as entwining itself around all my early and late associations." Gihon described Lecompte as "a third or forth-rate lawyer from Maryland."

Captain Wood completed his protection mission without incident. And while he was in northern Kansas, he had not acquired any indications or warnings of an "invasion" of Lane's army from Nebraska.<sup>46</sup> Brigadier General F.J. Marshall of the Kansas militia, however, did receive word of an imminent movement of Lane's forces. Recent information from a Kansas militia officer named White, who had infiltrated Lane's forces by posing as a free soiler, raised Marshall's concern. He informed Governor Shannon of White's findings. Lane's army was forming south of Nebraska City; roughly the same location Emery Hamilton had reported in his account of the travels of the Wisconsin Pioneer Company.<sup>47</sup> Marshall believed that the army had or would have up to 800 men and at least three "large cannon." According to Marshall's information, Lane's army would move into Kansas on 4 or 5 August. Hamilton's group of free staters, which he recalled as about 450 men, left for the Kansas border on 4 August.<sup>48</sup> Marshall also informed Shannon to expect trouble in the Lecompton area and all along the Kaw Valley in the immediate future. The "abolitionists already in Kansas will make another outbreak," Marshall advised Shannon, "believing that you will have use for the U.S. troops to take care of the Kaw River valley country."<sup>49</sup> In other words, what Marshall had discovered and pieced together was a well-coordinated assault by all free state forces in Kansas. The anticipated attacks along the Kaw would occupy federal forces while Lane advanced

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<sup>46</sup> Garver, "The Role of the United States Army," 583.

<sup>47</sup> F.J. Marshall to Wilson Shannon, 3 August 1856, RG-393, LR/DW and Emery Hamilton, Kansas Settler's Association, KSHS.

<sup>48</sup> F.J. Marshall to Wilson Shannon, 3 August 1856, RG-393, LR/DW and Emery Hamilton, Kansas Settler's Association, KSHS.

<sup>49</sup> F.J. Marshall to Wilson Shannon, 3 August 1856, RG-393, LR/DW.

towards Topeka with his main body. Once in Kansas, Lane's army could threaten pro-slavery communities in the territory. To counter the free state campaign plan, Marshall asked for all the assistance he could get from the Governor to repel the invasion and to "intercept Lane."<sup>50</sup>

Shannon did not receive Marshall's report until 6 August. Upon receipt, Shannon advised General Smith of Marshall's findings. He also added other tidbits of information that corroborated Marshall's conclusions regarding Lane's intent. If Lane successfully infiltrated Kansas, Shannon feared the pro-slavery organizations would rapidly form their own military forces. Shannon told Smith that "unless this invading force is arrested and disarmed I see no possible escape from a general civil war."<sup>51</sup> To preclude civil war, Shannon begged Smith to send what forces he could to stop the invasion. He also pleaded with Smith to "command the troops in person." And he cautioned Smith to use the forces under Cooke's command at Fort Riley since those from Fort Leavenworth were already deployed south of the Kansas River and could not be removed.<sup>52</sup>

Before Smith received Shannon's plea for help against Lane, he had to deal with two other issues that reflected badly upon the army as an impartial peacekeeping force in Kansas. The first dealt with the issue of political prisoners. Smith complained to the War Department of the United States Marshal's request to remove prisoners (such as Charles Robinson, the free state governor) under the guard of

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<sup>50</sup> F.J. Marshall to Wilson Shannon, 3 August 1856, RG-393, LR/DW.

<sup>51</sup> Shannon to Smith, 6 August 1856, RG-393, LR/DW.

<sup>52</sup> Shannon to Smith, 6 August 1856, RG-393, LR/DW.

Captain D. Sackett near Lecompton to the military facilities at Fort Leavenworth. "I informed the Marshal," Smith told Cooper, "that I would not receive them here." To keep political prisoners under military guard at a federal installation, Smith pointed out, "would only give rise to a clamor against military imprisonment of citizens."<sup>53</sup> The best way to handle the prisoner issue in Smith's mind was to house them under civil authority. The General would provide troops to aid in the policing of the prisoners once they were under civil control, but to keep them under military arrest would only complicate political matters in Kansas.

Perhaps even more embarrassing than the prisoner issue were the charges of drunk and disorderly conduct levied at army officers charged with protecting the public and maintaining the peace. The timing of the charges against Lieutenant Perkins could not have come at a worse time. Although the incident occurred on 26 June, Smith was not able to reply to the charges until 6 August. After conducting an investigation of Lieutenant Perkins at the behest of the War Department's reaction to a newspaper article published in the *New York Times*, Smith determined that Lieutenant Perkins was indeed drunk while on duty in Lawrence, Kansas. The last thing the army needed in August of 1856 was reports of its officers so drunk that they could not stand up and so inebriated that they lost all sense of discretion.

While he was intoxicated, Perkins allegedly boasted, "he'd give the Abolitionists h\_\_l." Captain Sturgis, Perkins immediate superior, was reported to have been so drunk that he too made disparaging political remarks in front of the

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<sup>53</sup> Smith to Cooper, 6 August 1856, LRAGO, Roll 551.



citizens of Lawrence. "The captain [Sturgis]," according to the *Times*, "stripped off his coat, threw his hat, and told the crowd to come on with revolvers, for he owned one slave and was too poor to lose her, but he was 'as abolitionist as Jesus Christ.'"<sup>54</sup> Boredom associated with peacekeeping duties and the availability of strong spirits in Lawrence undoubtedly contributed to Perkins inebriation. But as an army officer charged with upholding the law and with the imperative of remaining neutral in fact and in deed, Perkins's and Sturgis's behavior had given the army a proverbial black eye.

The reports of drunken officers and the delicate prisoner issues, however, were soon overshadowed by free state militia assaults on various pro-slavery strongholds. As predicted by Brigadier General Marshall, the free state forces in Kansas launched at least three successful assaults on pro-slavery positions. In a distinct change in their overall strategy in Kansas, free state forces under Lane went on the offensive. Prior to August, free staters had followed a strategy of resisting territorial officials only when they tried to execute what they considered to be "bogus" laws of an illegitimate legislature. They had never actively attacked pro-slavery communities until August, 1856. The reason for the change in strategy is unknown, but its timing and impact forced the Pierce administration to deal with a new crisis in Kansas only a few short months before the November elections. By 17 August, free state forces had routed pro-slavery defenders near Osawatimie,

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<sup>54</sup> "Kansas Matters," Clipping from New York *Times* in Smith to Cooper, 6 August 1856, LAGO, Roll 551. Sturgis would later command expeditions against the Kiowa and Comanche in 1859. He fought for the Union and President Lincoln promoted him to Brigadier General following the battle of Wilson's Creek. See "Sketch of Samuel D. Sturgis," 20 September 1861, Sturgis Papers, Manuscript Division, Library of Congress.

Franklin, Washington Creek, and at Colonel H.T. Titus's home near Lecompton.<sup>55</sup>

Army forces under the command of Major John Sedgwick had tried to position themselves between the contending factions at Colonel Titus's house, but they arrived too late.<sup>56</sup> As a result of the combined assaults, pro-slavery supporters panicked.

Rumors of Lane's army marching through Kansas and the attacks on pro-slavery strongholds spread throughout Kansas and western Missouri.<sup>57</sup>

The timing of Lane's infiltration and the attacks on pro-slavery communities becomes even more suspicious when compared to what was occurring in Washington. On 28 July 1856, the House of Representatives refused to approve the Army Appropriations Bill unless it contained a proviso (Sherman's Amendment) that the army could not be used in putting down free state men in Kansas.<sup>58</sup> More specifically, the rider specifically prevented Pierce from using federal troops to enforce "any enactment of the body claiming to be the Territorial Legislature of Kansas, until such enactment shall have been affirmed and approved by Congress."<sup>59</sup> Pierce, of course, had already placed his support behind the existing territorial legislature. The Republican attempt to use the power of the purse to tie Pierce's use of the army in Kansas certainly complicated matters. The Senate, dominated by Democrats, refused to pass the army bill with such a measure included. As a result of

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<sup>55</sup> Gihon, *Geary and Kansas*, 93-94.

<sup>56</sup> Major John Sedgwick to Major George Deas, 17 August 1856, 462-463, *Transactions*, Vol. IV, KSHS.

<sup>57</sup> For an example see, *Leavenworth Journal*, Extra, in A. Payne to Smith, 16 August 1856, RG-393, LR/DW, Box 4.

<sup>58</sup> Wilder, *Annals of Kansas*, 103 and *Congressional Globe*, Army Bill, 34<sup>th</sup> Cong. 1<sup>st</sup> Sess., 1790-1794, 1811-1814, 2037-38, 2183, 2189-91, 2195, 2199, 2239-40.

<sup>59</sup> "Sherman Amendment," 28 July 1856, *Congressional Globe*, 34<sup>th</sup> Cong., 1<sup>st</sup> sess., 1790 and "Army Bill," 22 August 1856, *Congressional Globe*, 34<sup>th</sup> Cong., 2<sup>nd</sup> sess., 9. See also "The Beginning of the End," *Montgomery Advertiser*, 3 September 1856, 1.

the impasse, Congress adjourned on 18 August without appropriating any money for the army. This was indeed bad news for the War Department and the Democratic Party. Since the fiscal year had already ended on 30 June, the army was operating without funding. The political implications of the stalemate were clear. Without appropriations, the day-to-day operations of the army could come to a halt. Some believed that the Republicans intended to use army funding as a political ploy to ensure their election in November. "Some of the Fremont papers," for example, "advise[d] them [the House Republicans] to stand their guard until next 4<sup>th</sup> of March, in the hope that amid the confusion, Fremont and a Republican House of Representatives may be chosen."<sup>60</sup> Others commented that peace in Kansas would be impossible without army appropriations. "Colonel Geary will find himself perfectly powerless in Kansas as a peacemaker," the *Baltimore Sun* concluded, "and without adequate means for preserving or enforcing order."<sup>61</sup> To achieve and maintain peace and order in Kansas, the Democrats had to win the battle of the budget before they could win the peace in Kansas and achieve victory in the national election.

Pierce was not about to let the Republicans destroy the army or win the White House. He reconvened Congress by calling for a special session on 21 August. In his message to both houses, Pierce stressed the need to put aside political differences for the common good. Interestingly, he did not emphasize affairs in Kansas as the primary or secondary reason as to why Congress should pass an appropriations bill without the Sherman rider. Instead, he cited ongoing hostilities with Indians in

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<sup>60</sup> *Baltimore Sun*, 22 August 1856, GSB, HSP.

<sup>61</sup> *Baltimore Sun*, 22 August 1856 in GSB, HSP, Vol II, 36.

Oregon, Washington, Texas, and Florida as sufficient justification to fund the army. He appealed to the Thirty-fourth Congress not to be the first in American history to refuse supplies to its army. He begged Congress to pass an appropriation to preclude "the fearful sacrifice of life and incalculable destruction of property on the remote frontiers." Pierce hoped these reasons and others would be sufficient to induce both Houses of Congress to enact "the requisite provisions of law for the support of the Army of the United States."<sup>62</sup>

How much affect Pierce's emotional appeal had on Congress is unknown. What is known is that Congress did pass an army appropriations bill without restriction on the use of troops in Kansas on 30 August.<sup>63</sup> Fortunately for Pierce and the Democrats, the lack of funding did not adversely affect Smith's peacekeeping operations in Kansas. It did, however, cause Smith to delay peace enforcement operations against the Cheyenne until 1857. The lack of funds needed to complete the necessary transportation and supply contracts for a punitive expedition were not available in time.<sup>64</sup> Now that the Pierce administration had won the fiscal battle with Congress, however, it could turn its full attention to pacifying Kansas and winning the election.

General Smith notified the War Department of Shannon's 6 August request for all available troops on 11 August. In his report, Smith expressed his concern for the great numbers of exaggerated and erroneous reports regarding the "ingress of

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<sup>62</sup> "Special Session Message," 21 August 1856 in Richardson, *Messages and Papers*, 394-396. See also, Nichols, *Franklin Pierce*, 480.

<sup>63</sup> Muldowny, "Administration of Jefferson Davis," 210. The 30 August Bill passed by a slim vote of 101 to 98.

<sup>64</sup> Smith to Cooper, 10 September 1856, LLAGO, Roll 552.

'Lane's party.'" The extent of the false reports was so overwhelming that Smith declined "making a movement that would introduce as much disorder as existed six weeks ago." Smith also declared that he would only trust reliable sources before taking any military action. The most reliable source of information to Smith was his officer corps. If Lane and his army were to cross into Kansas, he would rely on Captain Wood, who was still deployed along the northern frontier, to inform him. Smith was even reluctant to believe any report from the governor unless it was verified by one of his commanders in the field. Smith justified his action for two reasons. In the first place, the sheer volume of erroneous sightings and encampments exasperated him. Secondly, Smith knew that each party was "trying to engage the action of the troops in expelling their adversaries." Because of that, Smith placed "no dependence on the reports that [did] not come from what [he] considered good authority."<sup>65</sup>

Given Smith's reluctance to trust information from non-army sources, it was easy to see why he ignored Marshall's 3 August report. That was regrettable for Marshall's information was extremely accurate. His source, a Captain White, had ascertained accurate order of battle information. But more importantly, he had correctly interpreted the entire free state concept of operations. Had Smith believed Marshall's information, he might have intercepted Lane's army before it arrived in Kansas or at least before it reached Topeka. He probably could not have stopped the free state assaults along the Kaw River valley, but he could have prevented the

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<sup>65</sup> Smith to Cooper, 11 August 1856, LLAGO, Roll 551.

psychological impact generated by the presence of Lane's "Army of the North." Smith certainly knew the value of accurate, reliable, and timely intelligence. But he also understood that he could not send his limited number of troops after ghost armies. If nothing else, the "invasion" depicted the challenges and shortfalls associated with intelligence gathering in peacekeeping operations.

Accurate and reliable intelligence, however, was only one of Smith's concerns. Troop morale, troop strength, the Kansas territorial militia, effective rules of engagement (ROE), and biased and volatile civilian leadership presented challenges as well. Historians have written little about how army officers perceived peacekeeping duty in Kansas. "It is noticeable," Leavenworth historian Elvid Hunt commented, "that there is little record concerning the sentiments and convictions of officers and soldiers at the Post [Leavenworth] during this period of violent discussion." Despite the paucity of personal recollections, Hunt optimistically (and inaccurately) concluded that there was a "spirit of non-partisanship and self-control that has always characterized our Army in its dealings with difficult situations involving the welfare of the Nation."<sup>66</sup>

Hunt may not have captured the true spirit of how officers viewed their peacekeeping duties in Kansas, but he was right about the lack of evidence. Few officers who served in Kansas commented on such operations. Of those that did, they tended to despise it. The act of using federal troops as peacekeepers in a domestic disturbance was professionally distasteful. One officer who consistently

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<sup>66</sup> Hunt, *History of Fort Leavenworth*, 92.

expressed his disdain for peacekeeping was Lieutenant Colonel Joseph E. Johnston. Even before the 4 July dispersal operation, Johnston had articulated his views regarding the frustrations associated with duty in Kansas to his friend George McClellan. "We get weekly reports concerning our own future," Johnston lamented to McClellan while on duty near Lawrence, "sometimes that we are to remain here to keep the peace in Kansas or protect the Election Committee. Sometimes that we are to go to Ft Riley [so] that the 2<sup>nd</sup> Dragoons may go to N.M. At others that we are to assist at a great convention to be held some time in June near Fort Laramie." But most significantly, Johnston emphasized, "We are all opposed to the 1<sup>st</sup> [peacekeeping]."<sup>67</sup> Johnston would remain on peacekeeping duty in Kansas until October when General Smith reassigned him to Washington. Johnston's reaction spoke volumes regarding his views on peacekeeping. "I thank providence (& Gen'l Smith) for my escape from this d\_\_d civil bellum—soldiers were never on more disagreeable service."<sup>68</sup> As disagreeable as peacekeeping was, however, it was absolutely essential if Kansas was to be pacified before the general elections of 1856. Johnston and others may not have liked what they were doing, but their weapons offered the only viable alternative available during the 1850s.

Officers were also discouraged by the complicated political situation in Kansas. As "professional" soldiers they were not supposed to show favor or cast blame on either faction. But army officers were citizens too and often blamed one

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<sup>67</sup> J.E. Johnston to George B. McClellan, 13 April 1856, McClellan Papers, Manuscript Division, LOC, Roll 44/82.

<sup>68</sup> Johnston to McClellan, 25 October 1856, McClellan Papers, Manuscript Division, LOC, Roll 4/82.

side or the other for the violence. Major John Sedgwick, for one, supported the free state cause although he expected Kansas to become a slave state. "This is to be a slave state," Sedgwick thought, "and the North have no one to thank or blame for it but themselves and Governor Reeder."<sup>69</sup>

Others, such as Major George Deas, the Assistant Adjutant General for the Department for the West, tended to favor the pro-slavery side. Deas explained his views of August events in a letter to George Cadwalader of Pennsylvania. "The persons who have been induced to come to this territory by the Abolition party are of very disparate fortunes—more adventurers who, without capital, can hardly be said to be interested in property here. They are a very worthless set," Deas told Cadwalader, "whereas the miscalled Border Ruffians are men who coming from the neighboring states are seriously interested in maintaining the rights of persons holding slaves, and they are determined to carry this point." Deas concluded his assessment of territorial affairs by placing most of the blame for "Bleeding Kansas" on the free state party. "A few of these latter [Border Ruffians] have at times committed lawless acts—but most of the horrible crimes which have disgraced the territory lie at the door of the free-soil party. They, of course, declare that no law exists here, and so they act accordingly. Everything will settle down [peaceably] after the election," Deas concluded, "if (as is hope) Mr Buchanan is successful."<sup>70</sup> Other officers blamed both sides for the turmoil in Kansas. Captain George B. McClellan told Marcy of a

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<sup>69</sup> Major John Sedgwick to Father, 10 August 1855 in John Sedgwick, in John Sedgwick, *Correspondence of John Sedgwick, Major-General* Vol. II (n.p.: Carl Stoekl, 1903), 4.

<sup>70</sup> Major George Deas to General George Cadwalader, 14 August 1856, Cadwalader Papers, HSP.



conversation he had with Lieutenant Macintosh who had arrived in Washington on recruiting service. Lieutenant Macintosh gave “a dismal account of the delight of service in Kansas.” He said, “that there is no choice between the two parties—both being composed of the most unmitigated scoundrels that were ever brought together.”<sup>71</sup> Despite the expectation of neutrality and impartiality, many army officers did favor one side or the other. More often than not, however, these officers suppressed their political feelings in order to accomplish their mission of pacifying Kansas.

In addition to morale issues, Smith informed the War Department of his manpower and support concerns. After receiving a report from Major Sedgwick that outlined the movement of troops and the activities of free state forces, Smith was now convinced that there was a real threat in the area. Sedgwick estimated that at least 800 armed free state troops were assembled in Lawrence on 17 August. He also told Smith that the free state army could quickly add another 400 within twelve hours. Having received this information from a “good authority,” Smith realized that he did not have the troop strength necessary to prevent a free state attack on Lecompton and police the rest of Kansas at the same time. He informed the War Department of his orders to move all of his disposable forces in Kansas to Lecompton, keeping only small companies to garrison Fort Riley and Fort Leavenworth. Under his authority as departmental commander, he also ordered all available troops and recruits at Jefferson Barracks be sent to Kansas to beef up the number of available troops. But

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<sup>71</sup> McClellan to Miss Marcy, 22 July 1856, LOC, McClellan (MF) Roll 4/82.

would that be enough? There were an estimated 1,300 federal troops in Kansas.<sup>72</sup>

But those troops were also expected to protect emigrants and lines of communication and provide other day-to-day functions. Smith knew he needed “a large force to prevent any violence,” but he also realized that a “small one might tempt to the commission of it.”<sup>73</sup>

One way Smith could have resolved the manpower shortage was to ask the governor to call out the territorial militia. That option, however, was extremely dangerous given the pro-slavery bias and orientation of the militia. The other problem was command and control. The governor was the commander-in-chief of the militia. As such, all orders and movements of militia forces had to be coordinated through the governor. And the territorial governor was under no obligation to give operational control of the militia to the United States Army. As a result, militia forces could act on their own and without the prior approval of the senior army commander in the area. When militia forces did coordinate with the army it was more out of courtesy or to resolve jurisdictional issues.

In one such instance Smith received a letter from the commander of the Kansas Militia 1<sup>st</sup> Division that demonstrated the command and control and jurisdictional problems the army faced in Kansas. On 18 August, Major General William P. Richardson notified Smith that a “state of actual war exists in Douglas County, and that ... robberies and other flagrant violations of law are daily occurring by armed bodies of men from the northern states.” Furthermore, “in the absence of

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<sup>72</sup> McPherson, *Battle Cry of Freedom*, 161.

<sup>73</sup> Smith to Cooper, 22 August 1856, LLAGO, Roll 551.

all information from the Gov. of the Territory [Shannon resigned on 18 August],” Richardson informed Smith, “ I have taken the liberty of exercising the authority in me vested in cases of invasion, by ordering the entire strength of my division to rendezvous at various points of the Division to receive further orders.”<sup>74</sup> Richardson concluded his letter by asking Smith how far his “orders require[d] interference with the Militia of the Ter[ritory].,” and, most importantly, “whether or not their being thus assembled to repel such an invasion [was] in violation of [his] instructions.”<sup>75</sup>

Smith had no instructions regarding the relationship of the army and the Kansas militia. Legally, the General could not stop or interfere with the militia’s operations and activities. As long as the militia had been properly called up and organized by the governor, there was nothing Smith or the army could do to prevent Richardson or any other militia commander from using his troops as he saw fit. “As the army can only act in aid of, and subordinate to, the civil authority, it cannot array itself against the representatives of that very authority [Kansas militia],” Smith explained to the War Department, “and I see no way in which it [the army] can prevent a collusion brought about by the government of the territory itself, and in the exercise of its function.”<sup>76</sup> In short, Smith was powerless to use the army to maintain the peace if the territorial militia chose to make war on the “invaders” from the North.

If relations between the army and the militia were unclear, the guidance from Washington regarding how federal troops were to deal with the local population was

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<sup>74</sup> William P. Richardson to Smith, 18 August 1856, LLAGO, Roll551.

<sup>75</sup> William P. Richardson to Smith, 18 August 1856, LLAGO, Roll551.

<sup>76</sup> Smith to Cooper, 29 August 1856, LLAGO, Roll 552.

equally ambiguous. Following his attempt to place himself and his detachment between free state and pro-slavery forces at Colonel Titus's house, Major Sedgwick informed General Smith that he had "received no instructions how to act in a conflict with citizens, or when an officer is authorized to fire upon them." The only guidance Major Sedgwick acknowledged was Pierce's 16 February 1856 proclamation.<sup>77</sup>

Ironically, there was no 16 February presidential declaration. Sedgwick probably meant Pierce's 11 February decree. But the fact that he referenced the wrong date was indicative of the lack of current guidance on how the army was supposed to handle itself should hostilities between free state and pro-slavery factions commence.

In response to Sedgwick's request, Smith provided much needed ROE to the commander of the army forces near Lecompton on 19 August. But first he gave some tactical advice. Smith implored the on-scene commander to keep his forces concentrated as much as possible and to keep his troops "in a perfect state of readiness." Smith knew that only a large force could preserve the peace. Small detachments of federal troops might only encourage the militia to wage war on the free state forces. Mass or the use of large numbers of troops, in other words, was to be an important principle of peacemaking in Kansas. "That you [the commander near Lecompton] may have a distinct idea of your powers and duties," Smith provided the following "official instructions" so his commanders would know the rules by which their actions would be governed. The first was Pierce's 11 February proclamation. The second was Jefferson Davis's 15 February instructions to Colonel Sumner and

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<sup>77</sup> Sedgwick to Deas, 17 August 1856, LLAGO, Roll 551.

Lieutenant Colonel Cooke. The third document was Colonel Cooper's 26 March 1856 letter to Colonel Sumner's request for additional guidance. Smith reiterated those instructions. "It is only when an armed resistance is offered to the laws, and against the peace and quiet of the Territory, and when," Colonel Cooper stressed, "under such circumstances, a requisition for military force is made upon the commanding officer by the authority specified in his instructions [the governor], that he is empowered to act." The last official guidance Smith added came from his 27 June 1856 letter from the Secretary of War. This last guidance reminded the army commanders in Kansas to "abstain from encroaching upon the proper sphere of the civil authorities, and [you] will observe the greatest caution to avoid conflict between the civil and military power."<sup>78</sup>

In addition to the official guidance from Washington, Smith added his own guidelines. "As a great responsibility will rest on the officer in command of the troops, he must," Smith advised, "act of his own judgment and on information perfectly satisfactorily to his own mind." Smith knew he could not control all of his troops' actions. Although he was more in touch with operations than he would have been in St Louis, the lack of a speedy and reliable communications prevented centralized control of army operations even from Leavenworth. Out of necessity and out of tradition, Smith had to rely on the experience and abilities of those officers under his command. But he also wanted them to know that they could only commit their troops under "regular military authority." As Departmental Commander, he

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<sup>78</sup> "Instructions for the Officer in Command," 19 August 1856, *Transactions*, Vol IV, KSHS, 464-465. For more on the earlier guidance, see Chapter 5.

rightfully possessed such authority. Under the President's 11 February edict, however, the governor also had operational control over federal troops in Kansas. This arrangement violated the principle of unity of command, but it did ensure civilian control of the military.

Regardless of what happened in the vicinity of Lecompton, Smith wanted to be kept in "constant communication." And perhaps most importantly, Smith directed his field commanders "to avoid as long as possible any appeal to arms." He wanted the army forces near Lecompton to "use every endeavor in [their] power to bring those who are in opposition to the law [free state forces] to a sense of their error." And lastly, Smith asked his commanders to "avoid *small* conflicts, and [to] consider the shedding of a fellow citizen's blood as the greatest evil that can happen except the overflow of law and right, which must end in civil war." Should it become necessary to use lethal force, Smith advised his commanders to "employ it at once with all the power and vigor at your command." But, Smith cautioned, "continue it only until you have suppressed the insurrection, and then interfere to prevent any cruelty from others."<sup>79</sup>

Finally there was something of an answer to Sedgwick's question of when to use lethal force. Ideally it would not be necessary, but should a commander determine it to be appropriate, he should apply force with "vigor." But that force should be constrained and limited to the suppression of the insurrection. Smith would not allow his troops to wage "total war" on fellow citizens to achieve peace as

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<sup>79</sup> "Instructions for the Officer in Command," 19 August 1856, *Transactions*, Vol IV, KSHS, 466.

Harney had done with the Brule in September of 1854. Maximum numbers (mass) with minimal lethality (restraint) became the fundamental guideline regarding the use of the army in pacifying Kansas in 1856. Lethal force was authorized, but only as a last resort.

The fifth problem—reliable and capable civilian leadership—was perhaps the most significant one in August 1856. Although Pierce had decided to remove Wilson Shannon in July, he remained the chief executive until 18 August. The newly appointed governor, John Geary, was not yet in the territory when Shannon left his post. Upon hearing rumors of Geary's appointment and being "without moral power ... and ... destitute of any adequate military force to preserve the peace of the country," Shannon resigned on 18 August. Once Shannon quit, the territorial secretary, Daniel Woodson, assumed the position of governor. Woodson was still an avid pro-slavery advocate. And it was Woodson that had ordered the dispersal of the Topeka legislature on 4 July while Shannon was in St Louis. With Geary at least two weeks away, Pierce and the Democrats had ample reason to be concerned over the future of the territory. A "loose cannon" like Woodson could ruin the Democrat's chances for victory should he attempt another Topeka dispersal or something even more dramatic. Acting Governor Woodson did not take long to disappoint the administration.

In response to the earlier free state attacks, Woodson declared the territory to be in "a state of open insurrection and rebellion" on 25 August.<sup>80</sup> As Governor he

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<sup>80</sup> "Proclamation," 25 August 1856 in Smith to Cooper, 29 August 1856, LLAGO, Roll 552.

now had the authority to issue such a proclamation. He called upon "all law-abiding citizens of the territory to rally to the support of their country and its law." Woodson also commanded, "all officers, civil and military and all other citizens of the Territory to aid and assist by all means in their power in putting down the insurrectionists."<sup>81</sup> Unfortunately, Woodson's proclamation served as another call to pro-slavery Missourians to mobilize their own military organizations. Even more dangerous was the growing excitement in Missouri over "reports exaggerated to the highest degree."<sup>82</sup> As a result of Woodson's proclamation and Lane's "invasion," Smith fully expected armed Missourians to cross into Kansas and join the militia. Once their numbers swelled, Smith believed that they would "attack their opponents who are prepared to resist them." But General Smith, unlike Colonel Sumner, did not think it was necessary to prevent armed Missourians from coming into Kansas. "I do not think it was proper to prevent citizens from the neighboring border of Missouri coming over to aid & protect their relatives and friends from the outrages offered by the parties from Lawrence and Topeka. On the contrary," Smith told the War Department, "I should consider it a duty they owed."<sup>83</sup> But how could one identify and separate armed Missourians crossing into Kansas to protect friends and relatives from those who simply wanted to kill abolitionists? Likewise, how could a soldier distinguish between a bona fide free state settler and those "that are hired and paid to

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<sup>81</sup> "Proclamation," 25 August 1856 in Smith to Cooper, 29 August 1856, LLAGO, Roll 552.

<sup>82</sup> Smith included an extract from the *Weston Argus* of 18 August to demonstrate the types of exaggerations that found their way into print. See *Weston Argus, Extra*, 18 August 1856 in Smith to Cooper, 29 August 1856, LLAGO, Roll 552.

<sup>83</sup> Smith to Cooper, 29 August 1856, LLAGO, Roll 552.



get possession of the country?"<sup>84</sup> The "friend or foe" dilemma would plague the army throughout the remainder of 1856.

Fortunately for Pierce and the Democrats, Lieutenant Colonel Phillip St George Cooke had assumed command of all federal troops in the vicinity of Lecompton on 24 August.<sup>85</sup> Cooke was an experienced and levelheaded officer who understood his duty as the need to keep the peace in Kansas. Fortuitously, he was the senior officer present at Lecompton when Woodson issued his proclamation. Guided by Smith's 19 August guidance and accompanying ROE, Cooke would not deviate from his superior's instructions even at the risk of violating orders from his duly appointed civilian commander. As the military situation around Lecompton cooled, Woodson decided to go on the offensive against the free state organization. He ordered Cooke to "invest the town of Topeka." Furthermore, he instructed Cooke to "disarm all the insurrectionists or aggressive invaders against the organized government of the Territory to be found at or near that point." To accomplish his military and political objective, Woodson expected Cooke to level "to the ground" all free state "breastworks, forts, or fortifications."<sup>86</sup> Woodson's 1 September destruction order to Cooke was clearly incongruent with the Smith's most recent ROE and with guidance from Washington that had existed in the territory since February. Cooke refused to carry out Woodson's request. He informed the acting governor on 2 September that he could not execute his orders since there was "no

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<sup>84</sup> Smith to Cooper, 29 August 1856, LAGO, Roll 552.

<sup>85</sup> Order No. 1, 24 August 1856, *Letters Sent and Orders Issued, 1856-1858*, RG-391, NARA.

<sup>86</sup> Daniel Woodson to Cooke, 1 September 1856, General Records of the Department of State, *Territorial Papers: Kansas 1854-61*, RG-59, M218, Reel 1.

resistance to the laws” and there was no action taken “against the peace and quiet of the territory.”<sup>87</sup>

He also informed the acting governor that General Smith had provided guidance preventing federal troops from interfering “with persons who may have come from a distance to give protection to their friends or others, and who may be behaving themselves in a peaceable and lawful manner.”<sup>88</sup> Once Topeka had been leveled, Woodson had wanted Cooke to use the forces under his command to interdict free state forces entering Kansas via “Lane’s Trail.” (See Figure 8) Smith’s most recent addition to the ROE prevented Cooke from complying with Woodson’s desires to “intercept all aggressive invaders.” Cooke simply did not have the authority to determine who was an “aggressive invader” and who was a “legitimate” or bona fide settler.<sup>89</sup> As an impartial peacekeeping force, all Cooke could do was to place his troops between hostile parties if there was a likelihood of violence or collusion. Under the existing ROE, Cooke could neither interfere with the activities of the Kansas militia nor with the infiltration of armed groups entering the territory. The late August and early September situation in Kansas was indeed frustrating for the army. “If the Army be useless in the present unhappy crisis,” Cooke surmised, “it is because in our Constitution and laws, civil war was not foreseen, nor the contingency of a systematic resistance by the people to the government of their own creation.”<sup>90</sup>

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<sup>87</sup> Cooke to Woodson, 2 September 1856, General Records of the Department of State, *Territorial Papers: Kansas 1854-61*, RG-59, M218, Reel 1.

<sup>88</sup> Deas to Cooke, 28 August 1856, *Transactions*, Vol IV, KSHS.

<sup>89</sup> See Cooke to Woodson, 2 September 1856, LLAGO, Roll 552.

<sup>90</sup> Cooke to Woodson, 2 September 1856, *Letters Sent and Orders Issued*, 2<sup>nd</sup> Cavalry (2nd Dragoons and Rifleman), Vol. 1, RG-391, NARA.

Clearly, Woodson was seeking to use his position and his authority over the army to eradicate the free state stronghold of Topeka and to keep free state reinforcements out of Kansas. A pro-slavery biased or less capable commander might have obeyed Woodson's orders, but Cooke, armed with Smith's guidance and the will to disobey unlawful orders, held his ground. Cooke had rightly regarded Woodson's order as merely a "call ... to make war upon the town of Topeka."<sup>91</sup> Although he refused to implement Woodson's order, Cooke tactfully told the acting governor that he would forward his request to General Smith for his consideration.

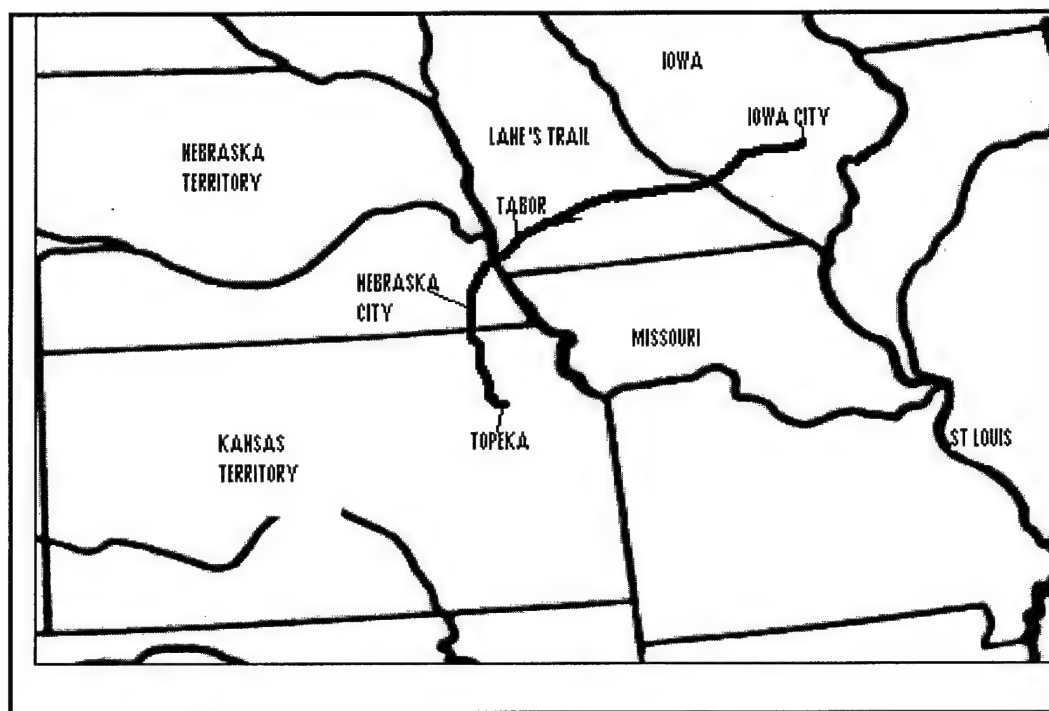


Figure 8, Lane's Trail<sup>92</sup>

<sup>91</sup> Cooke to Woodson, 2 September 1856, *Letters Sent and Orders Issued*, 2<sup>nd</sup> Cavalry (2nd Dragoons and Rifleman), Vol. 1, RG-391, NARA.

<sup>92</sup> Information on Lane's Trail taken from Emery Hamilton, Kansas Settler's Association, KSHS.

Smith, meanwhile, had received additional instructions from Secretary Davis on how to handle the escalation of violence in Kansas and the growing need for additional troops. Davis informed the General that President Pierce had directed the governors of Illinois and Kentucky to “complete the enrollment and organization of [their] militia” for use in Kansas should he need them.<sup>93</sup> He also told Smith that he was authorized to “make requisitions upon the Governor [of Kansas] for such military forces as you may require to enable you promptly and successfully to execute your orders and suppress insurrection against the government of the Territory of Kansas.” Davis and Pierce preferred that Smith use the Kansas militia first before requesting support from Illinois or Kentucky.<sup>94</sup>

In a distinct policy change concerning the use of the army, Davis also told Smith that because of the violence in Kansas, he could no longer justify “further hesitation or indulgence.” The army must become more involved. As antithetical to American principles and traditions as it was to use the army to secure peace among American citizens, the situation in Kansas, Davis believed, dictated more coercive measures. “To you, as every soldier, whose habitual feeling is to protect the citizens of his own country, and only to use his arms against a public enemy,” Davis lamented to Smith, “it cannot be otherwise than deeply painful to be brought into conflict with any portion of his fellow-countrymen. But patriotism and humanity alike require that rebellion should be promptly crushed,” the future president of the Confederacy added, “and the perpetration of the crimes which now disturb the peace and security

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<sup>93</sup> Davis to Smith, 3 September 1856, *Transactions*, KSHS, Vol. IV, 426-427.

<sup>94</sup> Davis to Smith, 3 September 1856, *Transactions*, KSHS, Vol. IV, 426-427.

of the good people of the Territory of Kansas should be effectually checked.” To accomplish the pacification of Kansas, “you will, therefore, energetically, employ all means within your reach to restore the supremacy of law, always endeavoring to carry out your present purpose to prevent the unnecessary effusion of blood.”<sup>95</sup> With increased violence and the presidential election only a few months away, the Pierce administration was running out of time and options. If peace in Kansas was the key to a Democratic victory and if peace could not be accomplished locally, then it would be imposed by the federal government.

Smith never had to request militia support from Illinois or Kentucky. But the Pierce Administration’s willingness to give him as many troops as he desired revealed an increased willingness to obtain peace through military power and coercion.<sup>96</sup> In response to Woodson’s order to invest Topeka, Smith wholeheartedly supported Cooke’s decision to disobey the acting Governor’s edict. Cooke’s disobedience—as far as Smith was concerned—had effectively prevented a civil war. “I approve, therefore, highly of Colonel Cooke’s refusal to send a command to Topeka, which not only would or might have resulted in the death of two or three hundred citizens on the mere vague denunciation of the Acting Governor.”<sup>97</sup> Cooke’s refusal also allowed the main body of United States troops to remain strategically positioned between Lecompton and Lawrence. In this position, they effectively prevented free state militia from destroying Lecompton and pro-slavery militia from

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<sup>95</sup> Davis to Smith, 3 September 1856, *Transactions*, KSHS, Vol. IV, 426-427.

<sup>96</sup> Mullis, “John Geary, Kansas, and the 1856 National Election,” 17.

<sup>97</sup> Smith to Cooper, 10 September 1856, *Transactions*, KSHS, Vol. IV, 472.

sacking Lawrence. "It could not, however, [have prevented] a detachment being made from the Missourians to attack a party under Brown, at Osawatomie, where thirteen men of the latter were killed."<sup>98</sup> Despite the loss of life at Osawatomie, Smith believed Cooke's actions had prevented a wider conflict. In order to preclude any of his officers from implementing any further questionable orders from Woodson, Smith directed all of his subordinates to implement only direct orders from the President that were transmitted through proper channels.<sup>99</sup>

On 5 September, Cooke informed the Department of the West of other concerns affecting the peace of the territory. He had deployed a detachment of troops to Lawrence on 4 September to aid the Marshal in executing writs and making arrests. The request for troops had gone through the governor as required by the existing ROE. The detachment went to Lawrence and returned to the camp near Lecompton without incident. There were no arrests made since none of the indicted men could be found. The next day, however, Cooke sounded "boots and saddles" after hearing word of an impending attack on Lecompton. He led his troops to a point about a mile outside of the territorial capital. There he encountered a free state force of some 60 men under the command of Captain Samuel Walker of the free state militia. The force was en route to Lecompton ostensibly to liberate the free state prisoners held by the territorial government. Cooke asked Walker if he had more

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<sup>98</sup> Smith to Cooper, 10 September 1856, *Transactions*, KSHS, Vol. IV, 472. General Reid, pro-slavery commander of the Kansas Territorial militia attacked Osawatomie on 30 August with 300 men and one piece of artillery. John Brown and his small free-state contingent fled the field across the Marais des Cygnes. The pro-slavery forces later burned Osawatomie. See, Gihon, *Geary and Kansas*, 100. For more on Osawatomie and other skirmishes that resulted from Woodson's proclamation see, Garver, "The Role of the United States Army," 586-587.

<sup>99</sup> Deas to Cooke, 3 September 1856, *Transactions*, Vol. IV, KSHS, 482.

men. He replied that they could raise an additional 700 if necessary. Given the potential size of Walker's force and the large number surrounding Lecompton, Cooke realized that he had to position his forces quickly if he was to prevent a hostile encounter between free state and pro-slavery forces. To diffuse the situation, Cooke first advised Walker that the prisoners he sought to liberate had already been freed by Woodson. Secondly, Cooke warned Walker that if he attempted to take Lecompton he would be forced to attack his troops. He advised Walker to stop his advance and return to Lawrence. Pleading ignorant of the prisoner release, Walker and his men agreed to disengage upon Cooke's word that the prisoners would be freed.<sup>100</sup>

As a result of Cooke's actions the army had once again performed admirably as peacekeepers. "Lecompton and its defenders were outnumbered," Cooke recalled, "and evidently in the power of a determined attack." As Cooke returned to his encampment he reflected of the day's events and the army's role in maintaining the peace. "My command could easily have overwhelmed any and all that might have defied it. I rejoiced that I have stayed the madness of the hour," Cooke boasted, "and prevented, on almost any terms, the fratricidal onslaught of countrymen and fellow citizens."<sup>101</sup> Cooke was justifiably proud of his accomplishments. He and his troops had preserved the tenuous peace in the territory by demonstrating calm and restraint without violating their ROE and without bloodshed. The tensions between free state and pro-slavery forces, however, remained unabated despite Cooke's successes. And

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<sup>100</sup> Cooke to Deas, 5 September 1856, LLAGO, Roll 552. The prisoners were scheduled to be freed, but they had not yet been released when Cooke met Walker outside of Lecompton.

<sup>101</sup> Cooke to Deas, 5 September 1856, LLAGO, Roll 552.

as long as Daniel Woodson was governor there was little chance of sustaining peace and order in Kansas.

### John Geary Arrives

A new governor, however, was soon to arrive in the beleaguered territory. "We are waiting patiently and with some hope for the appearance of our new Governor," a concerned Lawrence resident wrote to his father, "for we are sure he cannot be worse to us than Shannon who will now sink into insignificance."<sup>102</sup> Great expectations and high hopes for peace came with John Geary's arrival at Fort Leavenworth on 9 September 1856. General Smith, for one, was elated over Geary's assumption of the governorship. Smith remarked to Davis that Geary's arrival removed "one very great cause of embarrassment." He also assured Davis that he and Geary would act *entirely* in concert."<sup>103</sup> At long last the Pierce administration had what they hoped would be responsible military and civilian leadership in place. The newly formed team of Geary and Smith would not disappoint Pierce, Davis, or the Democratic Party.

Prior to his arrival in Kansas, Geary had received additional guidance from the Secretary of State, William Marcy. He instructed Geary to maintain order and quiet in the territory and to punish offenders of the peace. These guidelines, however, were essentially the same as those given to Reeder and Shannon. But the Pierce administration had given Geary more leeway in securing peace and order that

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<sup>102</sup> O.E. Leonard to Father, 10 August 1856, Leonard Collection, Vol. 2, 1853-1856, Kansas Collection University of Kansas Libraries.

<sup>103</sup> Smith to Cooper, 10 September 1856, LAGO, Roll 552.



the Democratic Party so desperately wanted. "Should the force which has been provided to attain these objects prove insufficient," Marcy informed Geary, "you will promptly make known that fact to the President, that he may take such measures in regard thereto as to him may seem to be demanded by the exigencies of the case."<sup>104</sup>

What Geary may or may not have known was Pierce's intent to use the Illinois and Kentucky militias to supplement the regular army forces now in Kansas. Regardless, Geary was to have all the force necessary to impose peace in Kansas. Furthermore, Marcy authorized Geary to raise a territorial militia to suppress whoever might resist the "legitimate" laws of Kansas.<sup>105</sup> Geary, however, was reluctant to rely on partisan militia forces. He wanted impartial federal forces to make peace in Kansas. "The presence of additional government troops," Geary stressed, "will exert a moral influence that cannot be obtained by any militia that can here be called into requisition."<sup>106</sup> Geary's statement reflected a profound insight regarding the nature of peacemaking in Kansas. The existence of a "legitimate" pro-slavery dominated Kansas militia opposed by well armed albeit "illegitimate" free state militia could only lead to conflict and violence. What Geary wanted was a powerful force that could rise above partisan emotions. But how could he acquire such a force given the strong feelings of hatred and enmity that existed between the two factions?

The answer came in a 9 September telegram from the War Department to General Smith. Davis informed Smith of the President's intent "to secure to you all

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<sup>104</sup> William L. Marcy to John Geary, 26 August 1856, *Transactions*, Vol. IV, KSHS, 521.

<sup>105</sup> William Marcy to Geary, 2 September 1856, *Transactions*, Vol. IV, KSHS, 521.

<sup>106</sup> Geary to Marcy, 9 September 1856, *Transactions*, Vol. IV, KSHS, 523. See also, Gihon, *Geary and Kansas*, 120.

the militia force necessary to maintain order & suppress insurrection,” but most importantly, “that no military operations shall be carried on in the Territory of Kansas otherwise than under your instructions & order. You will not,” Davis emphasized, “permit the employment of Militia of any armed bodies of men unless they are regularly mustered into the service of the United States.”<sup>107</sup> Davis assured Smith that Governor Geary would also be notified of the requirement to muster any militia into the service of the regular army. In one short but extremely important policy change, the federal government had implemented a means by which Geary and Smith could eliminate a major obstacle toward achieving and maintaining peace in the Kansas. As historian Robert Coakley concluded, the main goal of Geary was to restore peace and order and not to punish or suppress rebellion. “Federal control over the militia gave him the instrument to do so.”<sup>108</sup>

After months of attempting to keep the peace by interposing its forces between free state militia and the Kansas territorial militia, the army would simply integrate those opposing forces under its command. In essence, the federalizing or nationalizing of both militias gave Smith the unity of command and the unity of effort that he had heretofore been denied. Once mustered into the regular army, the officers and men of both free state and pro-slavery militias were responsible to Smith and his orders. They were to be fed and clothed in accordance with army guidelines but they were also subject to army discipline and order. This administrative action of

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<sup>107</sup> Jefferson Davis to General Persifor Smith, 9 September 1856, (telegram), RG 393, LR/DW, Box 4. Although Davis’s telegram was received in St Louis on 10 September, Smith did not receive it at Fort Leavenworth until 13 September.

<sup>108</sup> Coakley, *Role of Federal Military Forces*, 166.

centralizing control of all military forces in Kansas also helped resolve the friend or foe dilemma that had plagued the army since the Wakarusa War. All armed bodies that existed outside of the regular army were illegal. Only those mustered into the service of the United States had any legal sanction.

With Geary as governor and Smith as the senior military commander in Kansas, the territory now had capable and experienced civilian and military leadership. Moreover, the two native Pennsylvanians had a great deal in common. They both were loyal Democrats and both were committed to Buchanan's victory in November. And they understood the threat Woodson's actions as territorial governor had posed for the Democratic Party. Woodson, in Smith's view, "did not seem to me to take a right view of affairs." Assessing Woodson during his tenure as acting governor, Geary said that he had "no words sufficiently expressed to convey a proper idea of the condemnation of his destructive policy." Woodson's 25 August proclamation, in Geary's estimation, demonstrated an "utter lack of sound judgment."<sup>109</sup> Despite Geary's and Smith's obvious displeasure in Woodson's leadership, he remained territorial secretary throughout the remainder of Geary's administration.

Smith was very comfortable with Geary and his leadership abilities. And Geary was pleased with Smith's views on how to pacify Kansas. The new governor pledged his support and cooperation with Smith with the hope of "bringing the

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<sup>109</sup> Geary to Pierce, 19 September 1856, Geary Diary, Geary MSS, Vol 3, 42.

triumphant election of Mr. Buchanan.”<sup>110</sup> For his part, Smith assured Geary of his commitment to their common objectives. Smith guaranteed Geary that he count on him as a “*sure ally* ... for all is at stake in the coming election and the enemy [Black Republicans/Abolitionists] are moving here with a view to the 4<sup>th</sup> of November.”<sup>111</sup> Both men agreed that violent partisan politics had to end if peace was to come to Kansas and if the Democrats were to be victorious in November.

After departing Fort Leavenworth, Geary arrived at the territorial capital on 11 September. Based on his earlier consultations with Smith and the latest guidance from Washington, Geary began his administration by issuing two proclamations. The first officially disbanded the pro-slavery territorial militia called up by Woodson.<sup>112</sup> Geary knew that as long as the Kansas Militia had the sanction of the territorial government it was free to wreak havoc on the free state communities within Kansas. His second proclamation called for the formation of a new militia. This force, however, was to be made up of all “free male citizens, qualified to bear arms, between the ages of eighteen and forty-five.” And unlike earlier militias, this militia would only be organized “upon requisition of the commander of the military department in which Kansas is embraced.”<sup>113</sup> Geary’s proclamations, Smith’s unequivocal support, and the Pierce administration’s willingness to give Geary as much support as he needed had steered Kansas on the path towards peace and order.

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<sup>110</sup> Geary to Smith, 19 September 1856, Geary Papers, WAC.

<sup>111</sup> Smith to Geary, 28 September 1856, Geary Papers, WAC.

<sup>112</sup> “Proclamation,” 11 September 1856, *Transactions*, Vol. IV, KSHS, 526.

<sup>113</sup> “Proclamation,” 11 September 1856, *Transactions*, Vol. IV, KSHS, 527.

But Geary and Smith had one more hurdle to clear before they could complete the pacification of Kansas. On the same day that Geary set foot in Kansas, the citizens of Lawrence were anticipating yet another attack on their village by pro-slavery forces from Missouri. A local free state supporter named Oscar Leonard wrote from Lawrence to his friends back east "The enemy threatens to return and annihilate us. We await their coming."<sup>114</sup> But it was not until two days after Geary had issued his proclamations that he received word of possible hostilities near Lawrence. Theodore Adams, Geary's "special agent" in Lawrence, "found the people preparing to repel a contemplated attack from the forces coming from Missouri." "Reports are well authenticated," Adams informed Geary, "that there is within six miles of this place a large number of men." Adams also told the Governor that the free state forces in Lawrence would disband if "a sufficient protection be given them."<sup>115</sup> Unwilling to wait for a pitched battle to occur, Geary ordered Colonel Cooke to deploy his forces at 0130 on 13 September to the besieged free state community. By 0230 Cooke, 300 dragoons and four pieces of artillery were on their way to Lawrence. Geary also chose to accompany Cooke to Lawrence to see for himself what was actually happening. Cooke's command with Geary at the lead arrived in Lawrence at sunrise.<sup>116</sup> Seeing that there was no immediate military threat to Lawrence, the Governor and Colonel Cooke returned to Lecompton that afternoon.

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<sup>114</sup> Leonard to friends, 9 September 1856, Leonard Collection, Vol 2, 1853-1856, Kansas Collection, University of Kansas Libraries.

<sup>115</sup> Theodore Adams to Geary, 12 September 1856, *Transactions*, Vol. IV, KSHS, 530.

<sup>116</sup> *Transactions*, Vol. IV, KSHS, 531.

Geary's march to Lawrence, however, was not in vain. It demonstrated the new administration's resolve to protect Lawrence regardless of its political orientation. In contrast with Shannon, who ordered federal troops to Lawrence only after it had been sacked by Sheriff Jones and his posse, Geary sent troops at the first word of a threat. If the territorial government was willing to protect Lawrence with federal troops, its citizens saw little reason to maintain their own arms and military organizations.<sup>117</sup>

### Franklin Road

The deployment to Lawrence on 13 September also proved to have been a valuable dress rehearsal for the next day's events. On the afternoon of 14 September, Geary reported to Colonel Cooke that he had received information of free state forces numbering over 100 men who had assembled at Oswakee for the purpose of "burning and robbing the town." After the destruction of Oswakee, the marauding bands were expected to attack Hardtville (Hickory Point) in Jefferson County. Geary asked Cooke to deploy a force to the area "at the earliest moment." Cooke dispatched Captain Thomas J. Wood with a detachment of some 80 dragoons to execute the governor's request. Wood left Lecompton about 1800. He would return to Lecompton the next morning with a large stockpile of munitions and 101 free state prisoners under the command of Colonel Harvey.<sup>118</sup>

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<sup>117</sup> Adams to Geary, 12 September 1856, *Transactions*, Vol. IV, KSHS, 530. See also *Transactions*, Vol. IV, KSHS, 531.

<sup>118</sup> "Capture of One Hundred and One Prisoners," *Transactions*, Vol. IV, KSHS, 534. For another account of the capture of Harvey's men see, Geary to Marcy, 16 September 1856, *Transactions*, Vol. IV, KSHS, 535-538. The attack at Hickory Point resulted in the death of a man named Charles

As Wood pursued the free state marauders in Jefferson County, Geary received word of yet another threat to Lawrence. At 0300 on 15 September Geary received information from his special agent informing him that Lawrence was once again under threat. On the afternoon of 14 September, Adams had gone to Franklin, a small pro-slavery community about three miles east of Lawrence, to ascertain the nature of the force that had encamped in the vicinity. Once he arrived he found a "very large encampment of three hundred tents and wagons." The Kansas Militia commanders claimed to have over 2,500 men, "and from the appearance of the camp," Adams stressed to Geary, "I have no doubt that have that number." Geary's spy also reported the presence of the bulk of the pro-slavery leadership at Franklin. General Reid of the Kansas Militia was in command. But Adams also reported the presence of David R. Atchison, Colonel Titus, Sheriff Jones, and others. Based on what they saw, "Secretary Woodson thought you had better *come* with the militia on to the camp as soon as you can." Adams agreed. "A prompt visit would have a good effect."<sup>119</sup>

Upon receiving Adams's dispatch and other corroborating information, Geary once again ordered Cooke to send troops to Lawrence to "prevent a collusion." Cooke complied. He and 300 of his dragoons and a light artillery battery departed immediately for Lawrence. They arrived in the free state town later that evening and verified Adams's reports.<sup>120</sup> Geary arrived in Lawrence early on 15 September. He

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Granville Newhall. Four others were wounded. See "Trial of Hickory Point Prisoners," *Transactions*, Vol. IV, KSHS, 574-583.

<sup>119</sup> Adams to Geary, 14 September 1856, *Transactions*, Vol. IV, KSHS, 532-533.

<sup>120</sup> Gihon, *Geary and Kansas*, 150.

immediately called for a council of officers at Franklin. Accompanied by Colonel Cooke and a small escort, Geary met a group of free staters on the Franklin Road. They rode with the entourage to Franklin where Geary addressed the Kansas militia and Missourian leadership. He told the assembled pro-slavery officers that they must disband in accordance with his 11 September proclamations. Only those forces mustered into the regular service of the army would be allowed to remain armed. All others must "disband and disarm." Following the Governor's speech, Cooke then addressed the crowd. He appealed to the "militia officers as an old resident of Kansas and friend to the Missourians to submit to the patriotic demand that they retire," as Geary had demanded, "assuring them of [his] perfect confidence in the inflexible justice of the Governor." If they refused to disperse, however, Cooke assured the pro-slavery contingent that it "would become my painful duty to sustain [Geary] at the cannon's mouth."<sup>121</sup> And lastly, Governor Geary appealed to the pro-slavery party's sense of loyalty to the Democratic Party's cause. He had reportedly "warned the pro-slavery men that another raid into Kansas would insure the election of Fremont and the defeat of Buchanan."<sup>122</sup> For whatever reason, Geary's and Cooke's appeal to the pro-slavery leaders coupled with the presence of federal troops worked. The Kansas Militia and Missourian organizations disbanded and returned, for the

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<sup>121</sup> Cooke to Major F.J. Porter, 16 September 1856, *Transactions*, Vol. IV, KSHS, 500.

<sup>122</sup> Edith O'Meara, "Relief Work in Kansas, 1856-1857," Masters Thesis, University of Kansas, 1928, 12. See also, Nichols, *Bleeding Kansas*, 174. Pro-slavery leaders Reid and Atchison were relieved, according to Alice Nichols, that Geary and United States troops showed up at Lawrence on 15 September. There was a political advantage to have a Democratic governor bring peace to Kansas.



most part, to their homes without incident. Lawrence had once again been saved from destruction and Geary and Cooke had averted civil war.

The encounter along the Franklin Road and the capture of Harvey's men at Hickory Point proved in hindsight to be a culminating point in the saga of "Bleeding Kansas." Not until Quantrill's infamous raid on Lawrence during the Civil War would the free state community be threatened again with physical destruction. The significance of army's presence and its actions in securing peace cannot be underestimated. "At the close of the conflict of arms, [and] on the arrival of Governor Geary," Charles Robinson observed, "the United States troops were indispensable in bringing hostilities to an end. Had it not been for the command of Colonel Cooke before Lawrence, the 15<sup>th</sup> of September 1856, there is but little question that Lawrence and Topeka would have shared the same fate as Osawatimie. Without the troops at his back," Robinson concluded, "Governor Geary would have been ignored till this had been accomplished."<sup>123</sup> But even more importantly for the Pierce administration and the Democrats, the "non-battle" of Lawrence marked the beginning of an extended period of relative peace in Kansas. The Geary-Smith combination had succeeded where all others had failed. The dual successes of 15 September encouraged Geary to tell General Smith that "You may rely at all times upon my most hearty and ready co-operation, and the honor of settling this vexed question will soon be ours. And that in sufficient time too," Geary stressed, "to be of

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<sup>123</sup> Charles Robinson, *Kansas Conflict*, 337.

the most essential service in bringing about the triumphant election of Mr.

Buchanan.”<sup>124</sup>

While Geary and the army compelled the Kansas Militia and the various groups of Missourians who had joined them to disband, Captain Wood returned to Lecompton with 101 free state prisoners.<sup>125</sup> Within a 24-hour period Geary had demonstrated his resolve and his determination to bring peace to Kansas. He had also revealed his fundamental principles for doing so. “But the main principle, that the laws, as enacted, shall be obeyed until altered or repealed by proper authority,” one newspaper observed, “has been triumphantly asserted, in the face of bloody opposition.”<sup>126</sup> Geary had also demonstrated his impartiality. By simultaneously preventing the pro-slavery attack on Lawrence and by arresting Colonel Harvey’s free state band of marauders, Geary had shown his resolve to treat all who threatened the peace and order of Kansas with equal favor. Harvey’s men were arrested because they had violated the law. The pro-slavery Missourians and Kansas Militia were disbanded. They could not be arrested because they had operated under the legal authority of Woodson’s Proclamation.<sup>127</sup> With the army at his side, and with Geary and Smith of one mind and purpose, the territorial governor had the will and the means to impose and maintain peace. But Geary also knew that coercion alone could not sustain a lasting peace. A temporary peace was all he could hope for. In order to achieve permanent peace in the troubled territory, Geary had also promised “equal

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<sup>124</sup> Geary to Smith, 19 September 1856, GP, WAC, MSS 218.

<sup>125</sup> For more on Wood’s activities, See Thomas J. Wood to Cooke, 16 September 1856, *Transactions*, Vol. IV, KSHS, 502-504.

<sup>126</sup> *Philadelphia Evening Journal*, GSB, HSP, 83-4.

<sup>127</sup> Gihon, *Geary and Kansas*, 153.

and exact justice” to all in Kansas.<sup>128</sup> The experienced governor seemingly knew that without justice or at least a perceived sense of justice in Kansas there could never be a permanent peace. His motivation, however, was partisan. “With precisely the same instructions given to my predecessors,” Geary remarked to the President, “I have been enabled by sternly adhering to one line of policy, (in the very teeth of the Presidential election when every politician consideration conspired to induce excitement), to restore peace to Kansas and triumphantly to vindicate your administration.”<sup>129</sup>

### **Peace, Order and Security**

With peace at hand, all Geary and Smith had to do to aid Buchanan’s election was sustain the peace and order that occurred after 15 September. There would be significant challenges to the peace of the territory, but nothing of the magnitude Geary faced at Franklin Road and Hickory Point. To keep the peace, Geary took four actions that kept Kansas relatively quiet. His first action dealt with the need for additional military manpower. On 17 September, Smith requisitioned two companies of militia from Geary. Smith wanted one company of cavalry and one of infantry to aid in policing the territory.<sup>130</sup> In another example of Geary’s determination to act impartially and to govern with equal and exact justice to all, he enrolled one company of free state men and one of pro-slavery men into the service of the United States. Even more daring was his appointment of Captain Samuel Walker and Colonel H.T.

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<sup>128</sup> Geary to Pierce, 12 January 1857, Geary Diary, Geary MSS, Vol 3, 76.

<sup>129</sup> Geary to Pierce, 14 November 1856, Geary Diary, Geary MSS, Vol 3, 48.

<sup>130</sup> Smith to Geary, 17 September 1856, *Transactions*, Vol. IV, KSHS, 541.

Titus to lead each of the respective companies. Walker had been the commander of the free state force that attempted to wipe out Lecompton before Colonel Cooke intervened. And Titus, of course, was the pro-slavery leader whose home near Lecompton free staters attacked and destroyed during the August War. The appointment of two rival leaders to head the territorial militia companies was risky. But under guidance from Washington, each would lead companies mustered into the United States Army. Each became subservient to General Smith. Moreover, neither Smith nor Geary planned on using the militia companies to conduct active operations against one faction or the other. Instead, they were used to guard prisoners and assist the Marshal in making arrests. By removing the regulars from the "embarrassment" of guard duty and mundane *posse comitatus* functions, the army could more effectively maintain peace and meet the more traditional expectations of the frontier army.<sup>131</sup>

The second action Geary took to maintain peace in Kansas was to keep Jim Lane and his "Army" out of Kansas. By the end of September Governor Geary concluded that the "prospect of returning order was greatly brightening: all will depend upon the power of keeping back the Northern invasion."<sup>132</sup> What Geary feared most in early October was a return of Lane and his army. The very presence

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<sup>131</sup> Geary to Smith, 21 September 1856, *Transactions*, Vol. IV, KSHS, 572; Geary to I.B. Donelson, U.S. Marshal, 21 September 1856, *Transactions*, Vol. IV, KSHS, 548; Geary to Marcy, 22 September 1856, *Transactions*, Vol. IV, KSHS, 552-555; and *Transactions*, Vol. IV, KSHS, 559. For more on the prisoner issue, see Cooke to Geary, 16 September 1856, LLAGO, Roll 552.

<sup>132</sup> Cooke to Porter, 27 September 1856 near Lecompton, LSOI, RG-391.

of Lane in Kansas was enough to incite pro-slavery supporters to violence.<sup>133</sup> By the end of September, Geary had received reliable reports that Lane commanded up to 1,000 men and several pieces of artillery.<sup>134</sup> He also had word that Lane “was about to invade the territory with hostile intentions.”<sup>135</sup> To interdict Lane’s army and to prevent it from entering Kansas, Cooke sent Lieutenant Colonel Joseph E. Johnston and a large detachment to the “northern frontier.” Deputy Marshal Preston accompanied Johnston to the border under orders “to arrest any illegally armed body that might be found within the limits of Kansas.”<sup>136</sup> Johnston’s instructions were also simple and direct. He was “to repel invasion.” Cooke assigned four companies of the 1<sup>st</sup> Cavalry to prevent Lane from entering the territory. Should he enter the territory, Lane and his army were to be arrested.<sup>137</sup> Johnston and his forces were to remain positioned along the Kansas-Nebraska frontier until the territorial elections were held on 6 October.

The interdiction campaign worked. After the army had intercepted the advance guard of Lane’s army under James Redpath on 27 September, Johnston’s command remained on patrol along the territorial border.<sup>138</sup> Once they were escorted to Lecompton, Governor Geary determined Redpath’s party to be “real immigrants” and released them from federal custody.<sup>139</sup> By early October, Colonel Cooke had

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<sup>133</sup> Kenneth S. Davis, *Kansas: A History*, (New York: W.W. Norton & Company, 1984), 63. John Brown was another individual that pro-slavery supporters feared.

<sup>134</sup> Geary to Cooke, 27 September 1856, *Transactions*, Vol. IV, KSHS, 569.

<sup>135</sup> Gihon, *Geary and Kansas*, 187.

<sup>136</sup> Gihon, *Geary and Kansas*, 187.

<sup>137</sup> Geary to Cooke, 28 September 1856, *Transactions*, Vol. IV, KSHS, 570.

<sup>138</sup> Geary to Cooke, 25 September 1856, *Transactions*, Vol. IV, KSHS, 562.

<sup>139</sup> Garver, “The Role of the United States Army,” 596.

also taken charge of the troops along the northern frontier. He took an additional detachment of over 360 men with him giving the border force about 500 effective troops to stop any other element's of Lane's army from entering Kansas. Cooke joined forces with Johnston on 3 October near the Nebraska border. On the morning of 10 October, Colonel Cooke summoned Deputy Marshal William J. Preston to conduct an interview of a large group of emigrants who had just entered the territory from Nebraska. "Colonel" Shalor Eldridge and "General" Samuel Pomeroy commanded the expedition. Preston asked Eldridge and Pomeroy if they were aware of Geary's 11 September proclamation forbidding the entry of unauthorized armed bodies into Kansas. They said that they were aware of the proclamation, but they believed that if they entered Kansas as "bona fide settlers, and for lawful and peaceful purposes" that they could enter unmolested.<sup>140</sup>

Deputy Marshal Preston, however, did not believe that they intended to enter Kansas as peaceful emigrants. "There was nothing in the appearance of this party," Preston observed, "that they were peaceable immigrants." Preston based his assessment on several observations. First, Preston observed, Eldridge's party did not possess any stock one would expect to find with true immigrants. There were only seven families among the 240 emigrants. And they lack any great amount of "furniture, agricultural implements, or mechanical tools." The party was, however, "amply supplied with all the required articles for camping and campaigning

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<sup>140</sup> Preston to Geary, 12 October 1856, *Transactions*, Vol. IV, KSHS, 608.

purposes.”<sup>141</sup> Based on his assessment and Geary’s proclamation, Preston ordered the party to disband.

If Eldridge could prove his party’s peaceful intentions by allowing him to inspect the 20 wagons that accompanied the party, however, Preston said he would let them pass. Eldridge refused the offer. Preston then turned to Colonel Cooke for his opinion. After searching the wagons, Cooke agreed with Preston. His men had discovered a significant amount of munitions and other war materials to warrant arrest. Under escort of Cooke’s men, the Eldridge and Pomeroy party were taken to Lecompton to await Geary’s decision.<sup>142</sup> Geary met them on the north side of the Kansas River on 14 October. After a stern rebuke of their actions, Geary released the party under the premise that they disband and continue on as individuals. Geary and the army had again successfully prevented open hostilities by disarming and disbanding a hostile group.

A third action that preserved the peace was to compel the federal civilian authorities to uphold the law without the consistent use of federal troops. Marshal Donalson had asked Geary on 27 September for a posse of 20 troops to aid him in the vicinity of Tecumseh and Topeka. Geary refused to honor the Marshal’s request. “I have to say that there are now one hundred and fifty United States mounted troops in the vicinity referred to,” Geary replied to Donalson, “and my advices are that peace

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<sup>141</sup> Preston to Geary, 12 October 1856, *Transactions*, Vol. IV, KSHS, 608.

<sup>142</sup> Cooke to Preston, 10 October 1856, *Transactions*, Vol. IV, KSHS, 608 and Cooke to Geary, 10 October 1856, *Transactions*, Vol. IV, KSHS, 609. The arms discovered included three boxes of revolvers; 4 boxes fixed ball cartridges; 1 bag caps; a small lot rifle cartridge; 1 box, 10 Sharp’s rifles; 145 breech loading muskets; 85 percussion muskets, 115 bayonets; 61 common sabers; 2 officers’ sabers; 11 1/2 kegs of powder; 61 dragoon saddles; and 1 drum.

and quiet reign there.” Without any knowledge of a specific need for an armed posse of federal troops, Geary was not going to allow the Marshal to continue to use federal troops when civil authority should be sufficient. If Donalson met resistance then he could ask for troops. Until then, Geary wanted to reassure the people that the law would be executed without the use of federal force. “I am very averse to the employment of the military to execute civil process,” Geary emphasized to the Marshal, “and will only do so in cases of imperative necessity.”<sup>143</sup> Geary’s action effectively “put an end to a practice that had become truly disgusting to all peaceful citizens.”<sup>144</sup>

While Geary attempted to return the territory to some sense of judicial normalcy, he also wanted to demonstrate his commitment to resolving territorial political disputes through the ballot box. As an ardent supporter of popular sovereignty he knew that the only way the people could make decisions for themselves was through fair and honest elections. He was also aware of the tainted past of elections in Kansas. By law, Kansas was scheduled to have its next election for a congressional delegate and for its territorial legislature on the first Monday in October. If the free state supporters boycotted the election, as they had they had promised to do, then the results were a foregone conclusion. Whitfield would be re-elected and the legislature would continue to be occupied by pro-slavery men.

Geary had pacified the territory by early October 1856, but he had not yet convinced the majority of free state proponents that the ballot box had been restored

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<sup>143</sup> Geary to Donalson, 27 September 1856, *Transactions*, Vol. IV, KSHS, 566.

<sup>144</sup> Gihon, *Geary and Kansas*, 186.



as the legitimate means to resolve political differences in Kansas. To help alleviate the distrust that lingered from the fraudulent elections of 1855, Geary turned to the army to guarantee the sanctity of the electoral process. As early as 23 September Geary had expressed his concern over the upcoming election to General Smith. "Every poll where difficulty is likely to occur," Geary wrote Smith, "should be guarded on the election day."<sup>145</sup> On 25 September, Geary received a request from H. Clay Pate to form his own military organization to protect the polls in Lykins and Franklin counties. Geary responded the next day by assuring Pate that there was no need to form any military organization. "I have made every arrangement necessary to protect the *bona fide* citizens of this Territory in the exercise of their right of suffrage. The order has already [been] issued," Geary informed Pate, "to secure the attendance of United States troops at points where I have any reason to anticipate trouble."<sup>146</sup>

Unfortunately, Geary's action did not convince most free staters that the polls were safe. "Many men are reported leaving the territory," Cooke reported to Smith, "and it is believed that the free-soil inhabitants will not vote at the elections."<sup>147</sup> Despite his best efforts to resolve the territory's political issues through the ballot box, the "extralegal" free state organization remained intact and its supporters boycotted the territorial election. Although the election boycott was a setback to the long-term pacification of Kansas, it did not affect the short-term political benefits Geary and Smith had generated for the Democratic Party. Geary saw the election as a

<sup>145</sup> Geary to Smith, 23 September 1856, *Transactions*, Vol. IV, KSHS, 559.

<sup>146</sup> H. Clay Pate to Geary, 25 September 1856, *Transactions*, Vol. IV, KSHS, 565 and Geary to Pate, 26 September 1856, *Transactions*, Vol. IV, KSHS, 565. See also, Geary to Smith, 4 October 1856, *Transactions*, Vol. IV, KSHS, 595 for another example of Geary's orders to protect the polls.

<sup>147</sup> Cooke to Porter, 28 September 1856, LSOI, RG 391.

victory of sorts since it “passed off quietly.” But most importantly, Geary informed Marcy of his continued satisfaction with the “peace and tranquility” of the territory.<sup>148</sup>

By the end of September, Geary could proudly write to Secretary of State Marcy that “Peace now reigns in Kansas.”<sup>149</sup> Geary and the army had indeed pacified the territory and just in time to influence the outcome of the national elections. Geary’s actions coupled with the wise use of military forces as peacekeepers pacified Kansas long enough for James Buchanan to win the national election in November. In assessing his contribution to Buchanan’s victory, Geary humbly reminded Pierce that “any measure of my success I have attained here is due to my determination to administer ‘equal and exact justice.’”<sup>150</sup> He stressed the same message to Buchanan. “The cause of my success here was the inauguration of an impartial and sternly just administration.” Prior to my arrival in Kansas, Geary reminded Buchanan, “they have not had ‘equal and exact justice.’”<sup>151</sup> But Geary and his policies had not achieved peace alone. He rightly praised the United States Army for its significant contribution to a tranquil Kansas. “The presence of the United States troops here is a powerful auxiliary to moral suasion,” Geary explained to Marcy, “and they are excellent ‘peace-makers.’”<sup>152</sup>

Both the Pierce administration and the Democratic Party were undoubtedly delighted with the timely pacification of Kansas. Barely a month before the national

<sup>148</sup> Geary to Marcy, 7 October 1856, *Transactions*, Vol. IV, KSHS, 598.

<sup>149</sup> Geary to Marcy, 30 September 1856, *Transactions*, Vol. IV, KSHS, 572.

<sup>150</sup> Geary to Pierce, 12 January 1857, Geary Diary, Geary MSS, Vol 3, 76.

<sup>151</sup> Geary to Buchanan, 12 January 1857, Geary Diary, Geary MSS, Vol 3, 87.

<sup>152</sup> Geary to Marcy, 7 October 1856, *Transactions*, Vol. IV, KSHS, 598.

election and weeks before the key electoral states of Pennsylvania, Ohio, and Indiana held their state elections, John Geary and the army had imposed peace on Kansas. In doing so, they had denied the Republicans their most effective campaign issue.<sup>153</sup>

The closer the election loomed the more apprehensive and the more anxious Democrats had become over affairs in Kansas. "People here," a Pennsylvania Democrat wrote to Geary in early October, "are prepared to hear some startling telegraphic views from Kansas a day or two before next Tuesday."<sup>154</sup> Geary did not disappoint his fellow Pennsylvanians. As soon as Geary and the army had accomplished their primary objective, Allan Nevins wrote, "Democratic newspapers and campaign orators hastened to spread the news of Kansas pacification over the land, and Buchanan's candidacy immediately profited."<sup>155</sup> The results were indeed satisfying to Geary, Smith, and the Democrats. "It is quite generally admitted that your timely arrival in the territory, and your prompt and efficient action, have given the election to Buchanan. To you and to these must be attributed the democratic vote of Pennsylvania, New Jersey, Illinois, (unexpected to all), Tennessee, and Kentucky," Geary's private secretary declared, "nearly all of which were absolutely necessary to secure the result that has been obtained. This the Fillmore people admit," Gihon concluded, "and the Fremonters declare."<sup>156</sup> Shortly after his election, Buchanan too acknowledged the contributions of Geary and Smith to his success. "As a Pennsylvanian I rejoice that this good work [peace in Kansas] has been accomplished

<sup>153</sup> See James M. McPherson, *Ordeal by Fire, The Coming of the Civil War*, Vol 1 (New York: Alfred A Knopf, 1982), 96.

<sup>154</sup> Edward Johnstone to Geary, 10 October 1856, Geary Papers, WAC, MSS 212.

<sup>155</sup> Nevins, *Ordeal*, 486.

<sup>156</sup> John Gihon to Geary, 13 November 1856, Geary Papers, WAC, MSS 212.

by two sons of our good old mother state, God bless her! We have reason to be proud of Colonel Geary and General Smith," Buchanan proclaimed from Wheatland, "We shall hear no more of bleeding Kansas."<sup>157</sup>

Elections, of course, are rarely decided on one issue or on one factor. And the election of 1856 proved no different. But few could deny the centrality of "Bleeding Kansas" as the most significant issue of the campaign. Even fewer contemporaries or later historians could deny the influence the pacification of Kansas had on Buchanan's success in November. Upon hearing of Buchanan's victory, Geary effectively summarized his primary purpose in establishing peace in Kansas. "I can assure you that no man in the country felt more solicitous for this auspicious result than myself," Geary proudly proclaimed, "and as to the establishment of tranquility in Kansas, previous to the election, was supposed to favor you, I labored with intense energy to accomplish that object."<sup>158</sup>

James Buchanan and the Democratic Party were greatly indebted to John Geary and the United States Army for their timely and appropriate actions between August and October of 1856. Without Geary's firm and focused leadership and without the army's peacekeeping and peace enforcement capabilities, Kansas might have bled all the way to the election and beyond. Fortunately for the Democrats, the tourniquet of peace applied by Geary and the army held throughout the remainder of 1856.

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<sup>157</sup> Speech, James Buchanan, 6 November 1856, Wheatland, Pennsylvania in Arthur M. Schlesinger, Jr., ed., *History of the American Presidential Elections, 1789-1968*. Vol 2. (New York: Chelsea House Publishers, 1971), 1064-1065.

<sup>158</sup> Geary to Buchanan, 24 November 1856, Buchanan Papers, HSP.

Buchanan's victory in Pennsylvania proved decisive in the Democrat's retention of the White House. Without the endeavors of two of its favorite sons, Buchanan could have lost the state and the election to Fremont.<sup>159</sup> But with the election victory secured, could or would Geary and Smith nurture the peace that they had imposed or was it merely a "hollow peace" fashioned by political expediency and military coercion. Unfortunately, the post-election winter revealed the latter to be the case. Violent resolution of conflict returned to Kansas the following year. Geary resigned in March, 1857 because of a lack of political and military support.<sup>160</sup> And Kansas continued to bleed until the root cause of the Kansas controversy—slavery and its extension—was ultimately decided between two opposing societies on the battlefields of the American Civil War.

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<sup>159</sup> James Ford Rhodes, *History of the United States from the Compromise of 1850, Vol. II, 1854-1860* (New York: Harper and Brothers Publishers, 1893), 229 and 232-234. Of the 460,386 votes cast in Pennsylvania in 1856, Buchanan received 230,700. Fremont and Fillmore together garnered 229,686. See Burnham, *Presidential Ballots*, 248. Obviously the impact of the American Party hindered Republican success in Pennsylvania too.

<sup>160</sup> Geary to Buchanan, 4 March 1856, *Transactions*, Vol. IV, KSHS, 737. See also Muldowny, "Administration of Jefferson Davis," 221.

## Conclusion

Peace operations are not typically conducted within the territory of the United States.<sup>161</sup>

Joint Pub 3.0—*Doctrine for Joint Operations*

Although historians have written a great deal on “Bleeding Kansas” and on the frontier army’s constabulary role in the trans-Missouri west, little scholarship exists regarding how the army performed its peacekeeping and peace enforcement missions in the 1850s. This dissertation seeks to fill that void. Between 1854 and 1856, the Pierce administration called upon the United States Army to conduct a myriad of peace operations in and around the territories of Kansas and Nebraska. The army responded to the President’s call for peace, order, and security in the region by successfully completing a peace enforcement operation against the Lakota in 1855 and by aiding civil authorities in the imposition of peace among competing factions in Kansas during 1856. These were not the only peace operations of the decade, but they were representative of the breadth and depth of the peace operations the government and the American people expected the army to perform.

Troops predominantly assigned to Forts Leavenworth and Riley were largely responsible for the success of both of these operations. While General Harney’s expedition against the Sioux and Colonel Sumner’s and General Smith’s use of federal troops to aid in the pacification of Kansas in 1856 successfully accomplished their immediate political objectives, the manner in which the army conducted those operations merits scholarly investigation. Most importantly, what did the army’s operations against the Sioux and in territorial Kansas tell us about the nature of

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<sup>161</sup> Joint Publication 3-0, *Doctrine for Joint Operations*, 1 February 1995, V-11.

domestic peace operations during the 1850s? What did they say about the army's response to the challenges of peace enforcement and peacekeeping? And what did the army's role in Kansas tell us about its influence in shaping events during that turbulent chapter of American history?

One of the most important points regarding peace operations was the fact that the frontier army conducted them. Almost a hundred years before peacekeeping and peace enforcement were accepted as military functions, the much-derided constabulary army of the nineteenth century had performed them with impressive success. Although contemporaries would not have referred to the chastisement of the Sioux following the Grattan Massacre as a peace enforcement operation, the Sioux expedition was a textbook example of the application of force to compel Lakota compliance with the Treaty of Fort Laramie in order to maintain or restore peace and order to the trans-Missouri west.<sup>162</sup> If one accepts this definition of peace enforcement, then the Sioux expedition was indeed an example of a successful peace enforcement operation.

One of the most controversial aspects of the Sioux expedition was that it—like most peace enforcement operations in the twentieth century—looked a lot like war. It did. General Harney willingly used lethal force against Little Thunder and his Brules followers at Ash Hollow in September 1855 in order to restore “peace” along the Oregon Trail. The Brules suffered over eighty casualties in Harney's assault. Furthermore, women and children were taken as hostages to encourage the

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<sup>162</sup> Joint Pub 3-07, *Joint Doctrine for Military Operations of the War*, 16 June 1995, GL-4.

Brule and their Lakota brethren to comply with treaty stipulations. These violent and brutal actions and tactics hardly reflected peaceful intentions, but the United States government sanctioned them as appropriate measures necessary to establish what it considered to be a proper peace. Regardless of the circumstances in which the Fort Laramie treaty was ratified and regardless of the cultural differences in what exactly the treaty meant to the Sioux signatories, the War Department ordered Harney to use whatever means necessary to resolve the conflict, seek restitution, and restore peace. But the ultimate aim of the expedition was neither to conquer the Sioux nor to eradicate them. Its purpose was, in the words of Franklin Pierce, to teach "these wild tribes the power and their responsibility to the United States."<sup>163</sup>

By instilling fear in the hearts and minds of the Lakota, Harney hoped to achieve a lasting peace between the Plains Indians and the growing number of white emigrants and settlers along the Oregon Trail. The American government and the American people had always expected the army to protect vital lines of communication and those that used them. But the Sioux and other Plains Indians often used the lands in proximity to the trail and the Platte River valley to hunt and to live. The growing flow of settlers and emigrants coupled with the greater usage of the area for hunting by the Plains Indians increased the likelihood of a violent clash between the various peoples that traversed the region. One such conflict occurred over a rather unlikely incident—the killing of a Mormon-owned cow. Given the confluence of competing interests in the vicinity of the Oregon Trail and the Platte

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<sup>163</sup> "Second Annual Message," 4 December 1854 in Richardson, *Messages and Papers*, Vol. 5, 286.



River valley, a violent clash between whites and Indians may have been inevitable. If not over a dead cow, then perhaps a violent conflict would have erupted over a robbery or some other incident where Lakota and white interests intersected. The killing of a cow was undoubtedly just a trigger event that exposed larger issues. The incident could have been easily resolved through traditional negotiation means. If the Indian Agent, who had the authority to replace the dead cow with another from the annuity herd, had been present, he could have prevented the escalation of hostilities. Unfortunately, the Agent, John Whitfield, was days away.

Other circumstances and contingencies, however, contributed to the escalation of violence. The bravado and hubris of two inexperienced Lieutenants at Fort Laramie quickly transformed a minor incident into major one. And once the Brules and other Lakota had killed Grattan and his detachment, regardless of which side had fired first, the Pierce administration demanded restitution and justice in accordance with existing treaties and laws. In order to ensure compliance and guarantee peace on the plains, the government directed the use of force to chastise the guilty parties in hopes that a show of force by the army coupled with economic sanctions would discourage the use of violence in resolving disputes between the United States and the Lakota in the future. The objective of the expedition was to impose peace by punishing the guilty and to make an example of them to the other Sioux bands and to the other indigenous peoples of the plains.

But how would Harney know when he had achieved his objective? When the various bands of the Lakota agreed to Harney's terms and when those responsible for

the butchering of the cow and those implicated in the Grattan massacre had surrendered, the objectives would have been obtained. To ensure continued peace, Harney also used his authority to dictate the conduct of Lakota-white relations. By dictating the peace terms to the Sioux at Fort Pierre, he insisted on making the army the focal point of future relations between the Sioux and the United States. By insisting that all trade between whites and Indians be conducted at forts and demanding that the delivery of annuities take place at military posts, Harney hoped to maintain peace through positive control over situations that required Indian and white interaction. When there was no reason for intercourse between whites and Indians, Harney insisted that the Sioux remain in what amounted to a zone of separation. If the Lakota remained physically separated from whites and if they were isolated from their traditional enemies like the Pawnee, then Harney believed that peace would prevail throughout the plains. In seeking his objective, Harney had not yet resorted to what Seabury and Codevilla referred to as the "peace of the prison." He was, however, getting close to that type of peace. If not quite peace of the prison, Harney's peace terms were certainly congruent with the government's growing efforts to subdue the Sioux by means associated with ethnocide or peace of the cultural conquest.

If genocide was an unpalatable solution, ethnocide was seemingly a much more humane means of destroying Lakota culture and achieving and sustaining peace. In one of the most obvious attempts to alter or change Lakota political traditions, Harney demanded that the Sioux adopt a political structure that mirrored

his own. Harney's stipulation reflected his and probably many other nineteenth-century Americans insensitivity to Lakota political traditions. But as far as Harney was concerned, the radical change was necessary to ensure peace and guarantee order.

If the Sioux or any other indigenous people in the plains were to survive the onslaught of whites, however, they had to adapt to changing circumstances. Many did, although not in the way many Americans would have expected. Regardless of the cultural insensitivity and blatant actions deigned to acculturate the Plains Indians, Harney's imposed peace with the Lakota created a centralized political structure among the various Lakota bands that held an individual or a group of individuals responsible for the collective actions of each band. If the Brule or the Miniconjous perpetrated a depredation or crime against an American citizen or property, Harney vowed to hold the principal chief responsible for the crime. If he did not respond appropriately by returning the stolen property or turning over the guilty party, Harney intended for the army to hold the chief until satisfactory restitution had been made.

Peace enforcement, as exemplified by the Sioux expedition, looked a lot like war. And from the Lakota perspective it undeniably felt like war. People died. Innocents suffered. Lakota lives were changed as a result of the Sioux expedition of 1855. But Harney was a soldier and he had his orders. He and the army did not make policy—they implemented or enforced it. He understood his objectives and the means he was to use to achieve them. Moreover, he had the complete support—with the exception of some members of the Interior Department—of the government and

of the people. The people and the government had always expected the army to protect the Oregon Trail and other lines of communication. If those trails were threatened or if emigrants were attacked, killed, or robbed, the army was expected to punish the guilty. But it was also true that the army had to conduct other missions and functions while it pursued and chastised recalcitrant Indians. And no other mission was more delicate or more sensitive than that of domestic peacekeeping in territorial Kansas.

The need for the army to serve as peacekeepers in Kansas arose over several important issues. The two most important centered on the implementation of popular sovereignty in Kansas and on the question of legitimacy of the territorial legislature following the March 1855 election. The root issue or cause of what made Kansas bleed, however, was the polarizing question of slavery extension. And it was the ideological conflict over slavery extension question that made popular sovereignty and legitimacy of the territorial legislature salient issues. Without the ideological conflict over slavery, it was doubtful that Kansas would have stood at center of the nation's political stage throughout much of the 1850s. That is not to say that there were not other salient issues that sparked controversy in Kansas. "Into this struggle," one historian concluded, "was poured the venom of personal animosities, squatter fights, claim disputes and contests of thieving forays all interwoven with conflicts of devoted adherents to principles." And one cannot fully appreciate the significance of "Bleeding Kansas" "if any of these factors is omitted."<sup>164</sup> This assessment is

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<sup>164</sup> Mary Elizabeth Cochran, "Some Details of Missouri-Kansas Border Warfare Before

indisputably accurate. But what separated Kansas from all other territorial issues and what made it the most politically sensitive issue of the 1850s was whether slavery would be contained in areas in which it already existed or whether it could be taken anywhere where it was not expressly forbidden. All other relevant issues such as land titles could have been resolved in Kansas as they had been in all other newly organized territories and without the need to use the army as a peacekeeping force.

In the middle of the controversy over Kansas, its future, and the future of the nation stood the United States Army. One cannot fully understand the Kansas-Nebraska debate fully without appreciating the army's role in the territory between 1854-1856. Often overshadowed by the more colorful political characters that dominated the slavery extension debate and the question of slavery in Kansas, the army played a vital role in each and every scene of the Kansas drama. From land speculation in Delaware trust lands near Fort Leavenworth to land speculation in the Pawnee town association near Fort Riley, army officers were integral members of the society they were sworn to protect and defend. They were not isolated from the communities that emerged around them. And many of those newly formed towns embraced the army because forts provided economic stability and economic opportunity that was lacking in more remote regions of the newly formed territory.

The American polity expected army officers to be apolitical. And over the years "Officers developed a service ethic," William Skelton concluded, "a collective image of the army as a politically neutral instrument of the government, performing

sometime unpleasant but essential tasks for the public welfare.”<sup>165</sup> But at the same time the American people and the federal government did not want to deny military officers their rights and liberties as American citizens. But if officers pursued financial gain at the expense of the Delaware or any other emigrant Indian people in Kansas, how could they enforce the law and keep the peace in the region if those laws interfered with their pursuit of personal wealth? The conflict of interest that existed between certain officers’ rights as American citizens and their duty as professional military officers reflected a problem in American society. During the territorial period, one officer was removed from the army for his participation in land speculation while the vast majority were mildly chastised or, in the case of Major Ogden and Major Maclin, supported in their private affairs by the Secretary of War regarding their right to speculate as American citizens.

The inconsistent handling of land speculation incidents in Kansas reflected a profession in transition. Davis’s support of Maclin and Ogden proved surprising when compared to his support for the removal of Montgomery. The latter was an alleged free state supporter. Maclin was unquestionably a pro-slavery advocate. But did their political views influence Davis’s actions? “Perhaps,” or “maybe,” is the best the available evidence will allow. The fact that Ogden was perceived to be a free state supporter and the fact that Davis did nothing to impede his speculations suggests that political views were not the primary reason for retention or removal of army officers who speculated. More than likely, Davis court-martialed Montgomery

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<sup>165</sup> William B. Skelton, “Army, U.S.: 1783-1865,” in *American Military History* (Oxford University Press, 1999), edited by John Whiteclay Chambers, II, 50.

because he had violated the public trust by redrawing the boundaries of a federal reserve for no apparent military benefit to accommodate fellow members of the Pawnee Association. Ogden and Maclin, on the other hand, were involved in schemes that centered on Delaware trust lands that were to become available to the public anyway. Regardless of the outcome, the handling of each of these cases revealed a need for prescribed standards of conduct for the army.

These examples also illuminated the difficulty the army had as a peacekeeper and peace enforcer. If some of the officers responsible for the enforcement of treaty stipulations requiring the removal of illegal squatters on Delaware trust lands had a pecuniary interest in encouraging settlement on those lands, it would have been difficult for them to remove the very squatters they desired to improve their investment. Even more damning of the army's involvement with treaty enforcement was the low priority given to ensuring compliance with the Indian Intercourse Act between 1854 and 1856. The army did aid Indian Agents in the eviction of some illegal squatters, but the deliberate speed in which they chose to use force was reminiscent of how quickly southern schools would integrate following the Supreme Court's rulings in *Brown v. Board of Education* in 1954. Lack of manpower and higher priorities often served as justifications for denying Indian Agent requests to evict white intruders from Indian lands, but there were also times when it simply was not in the best personal interests of some officers to remove illegal squatters from Indian lands.

Other factors also hindered effective treaty enforcement. The communication processes required to approve use of federal troops further hampered the established removal process. The long and time consuming communication path to Washington and back often allowed illegal white squatters to establish homes on Indian lands well before the Indian Agent had received approval from Washington to evict them. And once those homes were established, many Agents were reluctant to remove squatters since the title to the land had been relinquished to the United States and those lands would be made available for auction to the very settlers who were already squatting on them. Many army officers were also reluctant to remove fellow citizens. But when ordered to do so by proper authority, they performed this distasteful and disagreeable duty with success.

Communications problems also hindered the army's peacekeeping efforts during and following the Wakarusa War of 1855. Once free state supporters and pro-slavery advocates had formed political and military organizations to achieve their respective political objectives in Kansas, the stage was set for potential conflict. The first significant opportunity for violent conflict occurred when the pro-slavery territorial militia augmented by pro-slavery Missourian attempted to level the free state stronghold of Lawrence. Governor Shannon requested military support from Colonel Sumner, but the Colonel was reluctant to use federal troops without explicit permission from the War Department or the President. While Shannon communicated with Sumner via express messengers, he relied on the telegraph to provide timely direction from Washington. The nearby telegraph office at Kansas



City afforded Shannon the opportunity for quick coordination with Washington, but it still took three days to get a response from the White House. And when Pierce's reply made it to Shannon, the President's response was too vague to convince Colonel Sumner that Shannon had the authority to call on him for assistance in civil matters.

The assault and robbery of the federal arsenal at Liberty, however, was a major concern for Sumner. There was no hesitation or need to coordinate a response with higher headquarters in sending troops to defend federal property at Liberty. Of course the troops Colonel Sumner sent to Liberty arrived only after alleged pro-slavery supporters procured federal arms from the arsenal. The army was prepared to react to threats against the peace and order of the area, but only after federal law had been broken or after a conflict had occurred. This reactive mentality hindered army effectiveness as peacekeepers during the early phases of the "Bleeding Kansas" saga. Without definitive and authoritative orders from Washington, Sumner refused to commit the 1<sup>st</sup> Cavalry to domestic peacekeeping operations in Kansas. Without Sumner and his forces, Governor Shannon was compelled to negotiate a settlement between the free state community in Lawrence and the pro-slavery dominated militia.

His treaty, however, was short-lived. It did not resolve the root cause of conflict in the territory. Until the slavery extension issue could be resolved, there would be no permanent peace in Kansas. The preferred solution to the extension question was supposed to be popular sovereignty. The Democratic Party was determined to resolve the slavery debate by allowing the local residents to determine

their local institutions. When exactly the local residents—or more specifically those white males over the age of twenty-one who claimed Kansas as their residence—were supposed to decide complicated matters immensely. Was the decision made while Kansas was still a territory or did its residents decide upon entry into the Union as a state? Although the 1857 Dred Scott decision appeared to render the question moot, that troublesome question was never satisfactorily answered. And even if it had been decided, slavery was certainly not a local issue—it was a national one. Competing sectional visions of the nation's future made Kansas and its status as a slave state or a free state a vital interest to northerners and southerners alike.

The future of the nation and the Democratic Party relied heavily on the outcome of popular sovereignty in Kansas. President Pierce and his administration were committed to making popular sovereignty work at any cost. But without peace and order in Kansas, popular sovereignty was doomed. For local residents to express their legitimate will, they had to use the ballot box as their means of expression. The vote was the accepted non-violent means of resolving conflict in American society. Unfortunately for Kansas and the nation, excessively fraudulent voting by interested pro-slavery parties from Missouri violated the sanctity of the ballot box. Both the election for the territory's congressional delegate in November 1854 and, most importantly, the election for the territorial legislature in March 1855 were unadulterated examples of voter fraud. Once the ballot box lost its legitimacy in the eyes of the growing number of free state supporters in Kansas, they turned to alternative means to express their political views.

The rise of an organized Free State movement and associated military units presented a direct threat to the legitimacy of the existing territorial government. The pro-slavery supporters countered with their own "Law and Order" party. With the blessing of the federal government, the "bogus" territorial legislature, as the free state supporters termed it, had the wherewithal to eradicate the free state movement through sanctioned violence. Since the legislature, once certified by the governor and recognized by the federal government, made the laws and since the governor was commander-in-chief of the territorial militia, any union between the legislature and the governor was a powerful force to be reckoned with by the free state opposition. Undaunted in their attempts to bring Kansas into the Union as a free state, they established their own state government.

In January 1856, Pierce determined the free state movement to be insurrectionary. As president he possessed the authority to suppress insurrection and execute the nation's laws. The only means he had to enforce the law and suppress rebellion was the federal army. The territorial militia was too biased to be an effective tool in pacifying Kansas, short of eliminating or evicting all free state supporters from the territory. The army's organization, discipline, and coercive capabilities made it the perfect tool for pacifying the territory. But Pierce and his administration were very deliberate in how they used the army. They could not afford to use federal troops as tools of oppression. The political costs would have been too great. Likewise, continued violence and bloodshed in Kansas following the sack of Lawrence and the Pottawatomie Creek massacre, were equally damaging to

the Democratic Party and its objectives. The army would be used, but only as a last resort and only under very specific circumstances and explicit rules.

Unfortunately for Pierce and the Democrats, the kind of command and control they would liked to have had over the army forces in Kansas was difficult to obtain. Existing technology had the potential for giving Washington more control over affairs in Kansas, but government reluctance to support the telegraph industry prevented Pierce from having near-real-time communications capability with his troops in Kansas. Once the Department of the West moved its headquarters from St Louis to Fort Leavenworth, Pierce was effectively out of telegraph range. He could still communicate with General Smith and the territorial governor via the telegraph, but the message normally had to be relayed from Boonville or stations east because the line between Boonville and points west were more often than not inoperable. Telegraphy operations beyond Boonville were simply not profitable enough for private industry to maintain connectivity with St Louis and without government funding, it was impractical to maintain telegraph lines between St Louis and Weston or Kansas City.

In lieu of near-real-time command and control, Pierce and Davis relied on face-to-face meetings with the territorial leadership or on the mail service to express their objectives and intent regarding Kansas affairs. While the lack of communications with General Harney was of little consequence in the peace enforcement operation against the Lakota, it was politically significant in Kansas. With the large numbers of free state biased press reporting events in Kansas back to

influential newspapers in the east, Pierce and the Democrats could ill-afford to let the army run amuck in Kansas. Seemingly innocent army operations, such as the dispersal of the Topeka legislature, became political ammunition for the Republican Party. If the Democrats were to maintain control of the federal government they had to win the national elections in November of 1856. If they wanted to win the elections, they had to deny the Republican Party its most potent campaign weapon. Peace in Kansas is what the Democrats wanted and that is exactly what Governor Geary and General Smith produced.

The longer violence in Kansas continued and the closer the national election the more willing the Pierce administration became in using force to impose peace. Shannon's removal and Daniel Woodson's assumption of the governorship in August led to outright civil war in the beleaguered territory. Had conflict between free staters and pro-slavery escalated, it could have easily spilled over into Missouri and throughout the Union. Fortunately for the Democrats, General Smith did his best to keep the violence contained until John Geary arrived. Once in the territory Geary used his authority wisely and effectively. He and Smith worked well together. They were united in their effort to pacify Kansas in order to aid Buchanan's election. Should they have failed in their pacification efforts, Fremont could have won the White House and the sectional crisis that the nation faced in 1860 could have occurred four years earlier.

Why were they successful? First, the administration had an able and experienced civilian leader in John Geary that had been missing in Shannon and

Reeder. Politically sound and well versed in military operations, Geary was willing to use the army in preemptive operations. Instead of waiting until after a violent confrontation had occurred, Geary wanted to prevent violence before it happened. To accomplish this objective, he relied heavily on spies for information on all belligerents and on the army for their coercive power to deter and disarm hostile bands. He was willing to deploy the army along the porous borders of the territory to limit the ingress of hostile parties. Much like what Sumner had tried to do in June by keeping armed groups of Missourians out, Geary was succeeded because the administration was willing to support him and his actions. After the debacle at Topeka and the intensity of the August War threatened Democratic chances in November, Pierce was more than willing allow Geary and Smith to use federal force to impose peace on Kansas. As long as the territory bled, victory in November was in doubt. Army interdiction operations and search and seizure missions were a small price to pay in order for the Democrats to retain control of the government.

Secondly, Geary used his operational control of the army decisively and with impartiality. He demonstrated shortly after his arrival his commitment and determination to rule Kansas justly and to stop the violence regardless of who instigated conflict. His handling of the Franklin Road encounter and the Hickory Point incident revealed his intent to pursue even handed justice. Both incidents also demonstrated his resolve to use force to pacify the territory. But he also exposed his commitment to use force with restraint that only a disciplined and well-organized force could provide. The federal Marshal and local sheriffs as well as the pro-slavery

territorial militia had proven worthless in keeping the peace. Only the army—even with its compliment of politically biased members—provided the requisite characteristics of restraint, impartiality, and legitimacy necessary to earn the respect and obedience of all involved in the Kansas controversy. By disbanding the territorial militia called up by Woodson and by federalizing a pro-slavery and a free state militia unit into the regular army under General Smith's command, Geary effectively eliminated any claim to legitimacy by all other armed bodies that roamed the territory. This administrative action coupled with Geary's leadership helped pacify Kansas by the end of September.

Lastly, and perhaps more importantly, Geary sought to reestablish order and a sense of security in Kansas as a prerequisite for what he termed equal and exact justice. After only a month in Kansas, Geary understood that restoration of the legitimacy of the government in the eyes of all Kansans was necessary to achieve a permanent peace. If the majority of the population had no faith in the territorial legislature or in the bulk of the appointed territorial officials, then it was impossible to bring peace to the territory. If he could restore faith in the ballot box and in the impartiality of the territorial government, then he could make popular sovereignty work or at least give it a fair opportunity to succeed.

In his last annual message to Congress, Pierce had nothing but praise for Geary and the army. "It affords me unmingled satisfaction thus to announce the peaceful condition of things in Kansas," Pierce told Congress, "especially considering the means to which it was necessary to have recourse for the attainment of the end,

namely, the employment of part of the military force of the United States. The withdrawal of that force from its proper duty of defending the country against foreign foes or the savages of the frontier to employ it for the suppression of domestic insurrection is, when the exigency occurs," Pierce emphasized, "a matter of the most earnest solicitude."<sup>166</sup> "On this occasion of imperative necessity it has been done with the best results," Pierce concluded, "and my satisfaction in the attainment of such results by such means is greatly enhanced by the consideration that, through the wisdom and energy of the present executive of Kansas and the prudence, firmness, and vigilance of the military officers on duty there tranquility has been restored without one drop of blood having been shed in its accomplishment by the forces of the United States."<sup>167</sup>

Unfortunately for Geary, once a modicum of peace was restored and after Buchanan had been safely elected, the Pierce administration withdrew much of its support. Most of the blatantly pro-slavery territorial officials that Geary had asked to be removed were allowed to stay. The administration's support of the army was reduced significantly. Without help from Washington and without the means to maintain peace, Geary was unable to keep the peace he and the army had forged in September of 1856. With threats against his life mounting and without any hope of assistance from a lame duck administration, Geary uncharacteristically resigned on

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<sup>166</sup> "Fourth Annual Message," 2 December 1856 in Richardson, *Messages and Papers*, Vol. 5, 405.

<sup>167</sup> "Fourth Annual Message," 2 December 1856 in Richardson, *Messages and Papers*, Vol. 5, 405-406.



the very day James Buchanan was inaugurated as president.<sup>168</sup> He had accomplished his most important objective of pacifying Kansas before the national election. But peace in Kansas was only a means to a greater political end. Permanent peace would not come to Kansas until the root cause of the controversy was finally resolved with the outcome of the American Civil War.

The army's experience as a domestic peacekeeping force in "Bleeding Kansas" and its peace enforcement operations against the Sioux have long been overlooked by historians and military professionals alike. In this era of military operations other than war or smaller scale contingencies such as Bosnia, Somalia, and Macedonia perhaps it is wise to re-evaluate the contributions the army of the 1850s made to our understanding of how Americans have conducted peace operations. Fifty years later as Lieutenant Colonel Robert L. Bullard advised his contemporaries, "The armed man, the best practical means of securing peace, had better ... not sit still and let the impractical idealist alone assume these functions."<sup>169</sup> Peacekeeping and peace enforcement operations are not the most glorious of military operations, but they are becoming more and more prevalent in the twenty-first century. While the conduct of peace operations may be as disagreeable a duty to today's soldier as it was to Lieutenant Colonel Joseph E. Johnston during the Kansas turmoil, peacekeeping and peace enforcement has been, is, and will continue to be an important part of the American military tradition that warrants continued study and more in depth analysis.

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<sup>168</sup> For more on Geary's demands for keeping Kansas peaceful, see Geary to Buchanan, 10 February 1857, Geary MSS, Vol 3, Geary Diary, WAC.

<sup>169</sup> Lieutenant Colonel Robert L. Bullard, "The Army in Cuba," *Journal of the Military Service Institution of the United States* 41 (Sept-Oct 1907), 157.

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